

Bail Slip:- The petitioner /Accused namely Sundaramurthy was directed to be released on bail as per the order of this court dated 20.7.2007 made in M.P.No.1/2007 in Crl.R.C.No.1089/07.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Crl.Revision Case No.1089 of 2007

Sundaramurthy .. Petitioner/Accused-2

Versus

State rep. by
Inspector of Police,
W-8, All Women Police Station,
Kilpauk, Chennai.

.. Respondent/Complainant

Revision Petition filed under Section 397 & 401 of Cr.P.C. against the conviction and sentence passed on 06.07.2007 by the learned VI Additional Sessions Judge, Chennai made in C.A.No.335 of 2005, dated 06.07.2007 confirming the conviction and modified sentence of one month simple imprisonment and a fine of Rs.6,000/- imposed by the learned Chief Metropolitan Magistrate, Egmore, Chennai in C.C.No.10639 of 2003 for offences under Sections 498-A of IPC and under Section 4 of Dowry Prohibition Act and to set aside the same.

For Petitioner : Mr.G.Ravikumar

For Respondent : Mr.V.Arul, GA (Crl.side)

ORDER

Petitioner who is the second accused has come up with the present Criminal Revision seeking to set aside the modified order passed by the learned VI Additional Sessions Judge, Chennai.

2. A complaint had been preferred by the defacto complainant against the accused for offences under Section 498-A and 406 of IPC and Section 4 of Dowry Prohibition Act alleging that they demanded dowry. The same was taken cognizance in C.C.No.10639 of 2003. After analysing the oral and documentary evidence on record, the Trial Court convicted the first accused and sentenced him to undergo simple imprisonment for one year and to pay a fine

of Rs.3,000/- each in default to undergo simple imprisonment for three months each for the offences under Sections 498A, 406 of IPC and Section 4 of Dowry Prohibition Act and convicted the second accused to undergo simple imprisonment for three months each and to pay a fine of Rs.3,000/- each in default to undergo simple imprisonment for three months for the offences under Section 498A, 406 of IPC and Section 4 of Dowry Prohibition Act. Aggrieved by the said order, the accused have preferred C.A.No.335 of 2005. In appeal, the VI Additional Sessions Judge, Chennai, has modified the sentence imposed with regard to A1 into six months simple imprisonment for each offence and with regard to A2 modified to one month simple imprisonment for each offence and confirmed the fine amount. Against which, the second accused has preferred this Criminal Revision.

3. According to the learned counsel for the revision petitioner, the petitioner/A2 is aged about 83 years old now. It is also contended that even as per the allegation, the second accused being an elderly person of the house neither prevented the first accused from demanding dowry nor questioned his son. It is also the case of the prosecution that the second accused has not forced the first accused to demand dowry. Hence, without taking into the evidences placed on record, the Court below has erroneously convicted the accused and hence, prays to set aside the same.

4. Learned Government Advocate (Crl.side) would submit that petitioner is the father of the first accused and he has not prevented his son from demanding dowry and there is no specific allegation that the petitioner insisted the first accused to demand dowry. However, being the elderly person of the family the petitioner could have very well stopped his son from demanding dowry and the inaction on the part of the petitioner thus make out an offence under Section 498(A) of IPC.

5. Taking into consideration the judgments rendered by the courts below and the arguments advanced by both sides, it is clear that the complaint had been lodged only on the ground that the petitioner being an elderly person of the family, father of the first accused had not restricted his son from demanding dowry. No where, in the evidence, it is pleaded that the petitioner herein had demanded dowry directly to the defacto complainant or urged his son to demand dowry. Hence, I am of the view that a prima facie case is not made out against the second accused and his conviction and sentence is liable to be set aside.

6. Hence, the conviction and sentence passed in respect of the petitioner/A2 alone is hereby set aside. However, it is made clear that the observations made in this order will not in any way enure to the benefit of the other accused.

In view of the above, this Criminal Revision is allowed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1. The VI Additional Sessions Judge, Chennai.
2. do thro the Principal Sessions Judge
Chennai
3. The Chief Metropolitan Magistrate, Egmore, Chennai.
4. The Inspector of Police
W8 All Women Police Station
Kilpauk, Chennai
- 5.The Public Prosecutor, High Court, Madras.

1 cc to Mr.G. Ravikumar, Advocate, Sr. 35804

Cr1.R.C.No.1089 of 2007

KU (CO)
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