

Bail Slip

The Appellant/1st Accused was directed to released on bail and by the order of this court dated: 28/10/2010 and made in M.P.No.2 of 2010 in CrI.R.C.No.1052 of 2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

CrI.Revision Case No.1052 of 2010

Poovendran ... Petitioner /Accused No.I

vs

State rep.by
The Inspector of Police
All Women Police Station
Vaniyambadi.
(Cr.No.10/2005)

.. Respondent

Revision Petition filed under Sections 397 read with Sec.401 of Cr.P.C. against the judgment dated 01.10.2010 passed by the learned District Additional and Sessions Judge, Fast Track Court, Thirupathur in C.A.No.2 of 2007 confirming the conviction and sentence passed by the learned Judicial Magistrate No.IV, Thirupathur in C.C.No.176 of 2005 dated 07.03.2007.

For Petitioner : Mr.R.Kannabiran

For Respondent : Mr.V.Arul
Government Advocate

ORDER

The petitioner/A-1 was tried for an offence punishable under Section 498-A IPC and Sections 4 and 6 of Dowry Prohibition Act along with his father and mother, who were arrayed as A-2 and A-3. The trial court, after trial, by a judgment dated 07.03.2007 in C.C. No.176 of 2005, convicted all the accused for the offence under Section 4 of Dowry Prohibition Act and sentenced them to undergo rigorous imprisonment for six months and to pay a fine of Rs.1,000/- each, in default, to undergo simple imprisonment for a period of three months. The petitioner and the other accused, were however found not guilty of the offence under Section 498-A of IPC and all of them were acquitted of that charge. Aggrieved by the judgment of conviction, all the accused filed Criminal Appeal No.2 of 2007 before the appellate Court and the first appellate Court by judgment dated 01.10.2010 acquitted A2 and A3 by setting aside the conviction and sentence ordered by the trial Court and confirmed the conviction and sentence as against the petitioner/A1 alone. Challenging the said judgment, the petitioner/A1 alone has preferred this revision.

2. The learned counsel for the petitioner submits that the trial court erroneously found that the petitioner was guilty of the offence punishable under Section 4 of the Dowry Prohibition Act, when it has found not guilty under Section 498-A of IPC. He would further submit that there is no evidence produced as regards the demand of dowry, viz., when it was demanded and when it was paid. When that being so, the conviction and sentence ordered by the trial court and upheld by the first appellate Court is erroneous. Further, the petitioner would contend when the first appellate court found the other co-accused in the matter not guilty of the offence under Section 4 of the Dowry Prohibition Act, convicting the petitioner alone under the said section is unwarranted. Accordingly, he would pray for setting aside the judgment passed by both the Courts below.

3. The learned Government Advocate appearing for the respondent would submit that both the courts below only after analysing the entire evidence available on record convicted the petitioner/A1 of the offence under Section 4 of the Dowry Prohibition Act and that both the Courts below have also acquitted the father and mother, who were arrayed as A2 and A3 in the matter from all the offences alleged. Accordingly, he would pray for the dismissal of the revision.

4. However, in the alternative, the learned counsel for the petitioner would pray for leniency in awarding the sentence, since, if the petitioner's sentence is confirmed, his family would be put to hardship. He would also submit that the petitioner has already undergone 50 days of incarceration.

5. I heard the counsel for both sides and perused the materials on record.

6. On a perusal of the judgments passed by both the Courts below, it is found that there are discrepancies with regard to the cruelty alleged. Hence, it has acquitted all the accused under Section 498-A of IPC. Further, the first appellate Court also acquitted the other accused, viz., the father and mother of the petitioner from all the offences alleged as there was no evidence adduced as to when they have demanded dowry; whereas convicted the petitioner, who is the husband as he has received dowry even before the marriage and the same has also been proved by the prosecution. Accordingly, I do not find any reason to interfere with the same.

7. Regarding reduction of sentence is concerned, as the petitioner/accused has already undergone 50 days incarceration and that he has to look after his aged parents, the learned Government Advocate (Crl.side) would submit that it is for the Court to decide as to whether sufficient and cogent reasons has been assigned for reducing the sentence.

8. Considering the discrepancies pointed out by the Court below in the evidence of P.Ws.1 to 3 and based on the same the other co-accused in the matter have been acquitted of all the charges, the sentence awarded to the petitioner to undergo six months rigorous imprisonment and confirmed by the first appellate court is reduced to

three months. The trial court shall take appropriate steps as are necessary to secure the presence of the petitioner/accused to undergo the sentence of three months rigorous imprisonment now reduced by this Court. It is needless to mention that the period of sentence, viz., 50 days, as already undergone by the petitioner shall be given set off under Section 428 of Cr.P.C.

9. In the result, the revision petition is partly allowed to the extent indicated above.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

vj2

To

1. The Additional District and Sessions Judge, Fast Track Court, Thirupathur
2. The Judicial Magistrate No.IV, Thirupathur
3. The Chief Judicial Magistrate, Coimbatore
4. The Superintendent, Central Prison, Vellore.
5. The Public Prosecutor, Madras
6. The Inspector of Police, All Women Police Station, Vaniyambadi.

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