

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Criminal Revision Case Nos. 930 and 978 of 2015
and
M.P. No. 1 of 2015
in
CRL.RC.NO.930 OF 2015

S. Ravindrudu .. Petitioner in both the
Petitions/Petitioner/Appellant

Versus

State represented by
The Inspector of Police
All Women Police Station
Villivakkam
Chennai

.. Respondent in both the
Petitions/Respondent/Complainant

Criminal Revision Cases filed under Sections 397 and 401 of the Code of Criminal Procedure praying to set aside the common order dated 13.07.2015 passed in Crl.M.P. No. 19 and 20 of 2015 in Criminal Appeal No. 196 of 2013 on the file of the XVI Additional Sessions Court, Chennai.

For Petitioner : Mr. K. Selvamani
(in both the Cases)

For Respondent : Mr. V. Arul, Government Advocate
(Crl.side) (in both the Cases)

COMMON ORDER

The petitioner has filed this Criminal Revision Case challenging the order dated 13.07.2015 passed by the Appellate Court dismissing the petitions filed by him under Section 391 of Cr.P.C. for reception of certain documents and to examine him as a witness in support of his defence at the appellate stage.

2. On the basis of the complaint given by Swapna, wife of the petitioner, the prosecution came to be launched against the petitioner and he stood charged for the offences punishable under Sections 498-A, 486 and 506 (ii) of IPC read with Section 4 and 5 of

Dowry Prohibition Act. After trial in C.C. No. 424 of 2010, the petitioner was convicted by the learned Chief Metropolitan Magistrate, Egmore only for the offence under 498-A of IPC and 486 of IPC and sentenced him to undergo rigorous imprisonment for a period of three years. Challenging the same, the petitioner has filed Criminal Appeal No. 196 of 2013 before the Appellate Court. Pending appeal, the petitioner has filed Crl.M.P. No. 19 and 20 of 2015 in Criminal Appeal No. 196 of 2013 for reception of additional documents and to examine himself as a witness in the appeal for the purpose of marking the documents. The appellate Court dismissed the said application on the ground that the petitioner was given sufficient opportunity to produce those documents before the trial court, but he did not produce it at the time of trial. It is also stated that it is not the case of the petitioner that the trial court refused to entertain the documents filed by him, rather, he did not file the documents sought to be now marked at the appellate Stage. It was further stated that there is nothing on record to show that the petitioner has exercised due diligence in marking the documents and it is not known as to how the documents sought to be produced will be of any use to defend the case of the prosecution.

3. The learned counsel for the petitioner would contend that the documents sought to be produced by the petitioner are very essential to defend the case of the prosecution. One of the documents relate to a courier receipt to show that the sridhana articles, which were presented to the defacto complainant at the time of her marriage, were sent through parcel service. The other vital document sought to be marked is the petition filed by the petitioner on 12.10.2008 before the learned III Additional Family Court, Chennai for restitution of conjugal rights in OP No. 4017 of 2008. The appellate Court, without appreciating the nature of defence sought to be projected by the petitioner has refused to entertain the documents and dismissed the application on the ground that the application has been filed as an after-thought. According to the counsel for the petitioner, if the documents sought to be produced are entertained, it will help the petitioner to establish that he has made out a case for acquittal and consequently the conviction and sentence imposed on him are liable to be set aside.

4. On the contrary, the learned Government Advocate (Crl.side) would contend that even according to the petitioner, he has filed the petition for restitution of conjugal rights on 12.12.2008, however, it is not known as to what prevented him to file the said petition during the course of trial in the criminal proceedings. According to the learned Government Advocate, the present petition has been filed to fill up the lacuna and therefore, the appellate Court has rightly dismissed the petition for reception of additional documents and to permit the petitioner to examine himself as a witness.

5. I heard the counsel for both sides and perused the order passed by the Appellate Court. According to the petitioner, he has

filed OP No. 4017 of 2008 before the learned III Additional Family Court, Chennai for restitution of conjugal rights on 12.12.2008 and the said proceedings relating to restitution of conjugal rights have been pending during the time of trial in the criminal case in C.C. No. 424 of 2010. However, the pendency of OP No. 4017 of 2008 was not brought to the notice of the trial Court at the time of trial in the criminal case. Similarly, the other document sought to be marked viz., Courier receipt was also very much in existence at the time of trial, but for the reasons best known, the petitioner did not mark the said document at the time of trial in the criminal case. After the petitioner suffered a judgment of conviction and sentence by the trial court, at the appellate stage, he has chosen to mark the documents and to examine himself as a witness to mark the documents. In those circumstances, the appellate Court is right in observing that the instant application has been filed by the petitioner only to fill up the lacuna and it is an after-thought. I do not find any reason to interfere with such a finding rendered by the Appellate Court. Furthermore, the petitioner has not given any reasons for marking the documents at the appellate stage.

6. For all the above reasons, the common order passed by the Appellate Court on 13.07.2015 in Crl.M.P. Nos. 19 and 20 of 2015 is confirmed. The Criminal Revision Cases are dismissed. However, it is observed that the petitioner is at liberty to bring to the notice of the Appellate Court, regarding the pendency of OP No. 4017 of 2008 before the III Additional Family Court at Chennai at the time when the criminal trial in C.C. No. 424 of 2010 commenced, during the course of argument in the criminal appeal and it is for the appellate Court to consider the same and to proceed further in accordance with law. Consequently, MP No. 1 of 2015 is closed.

-s/d-

Assistant Registrar(CS-II)

dt:08/10/2015

True Copy

Sub-Assistant Registrar

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To

1.The XVI Additional Sessions Judge,
Chennai.

2.-do-Thro'The Principal Sessions Judge,
Chennai

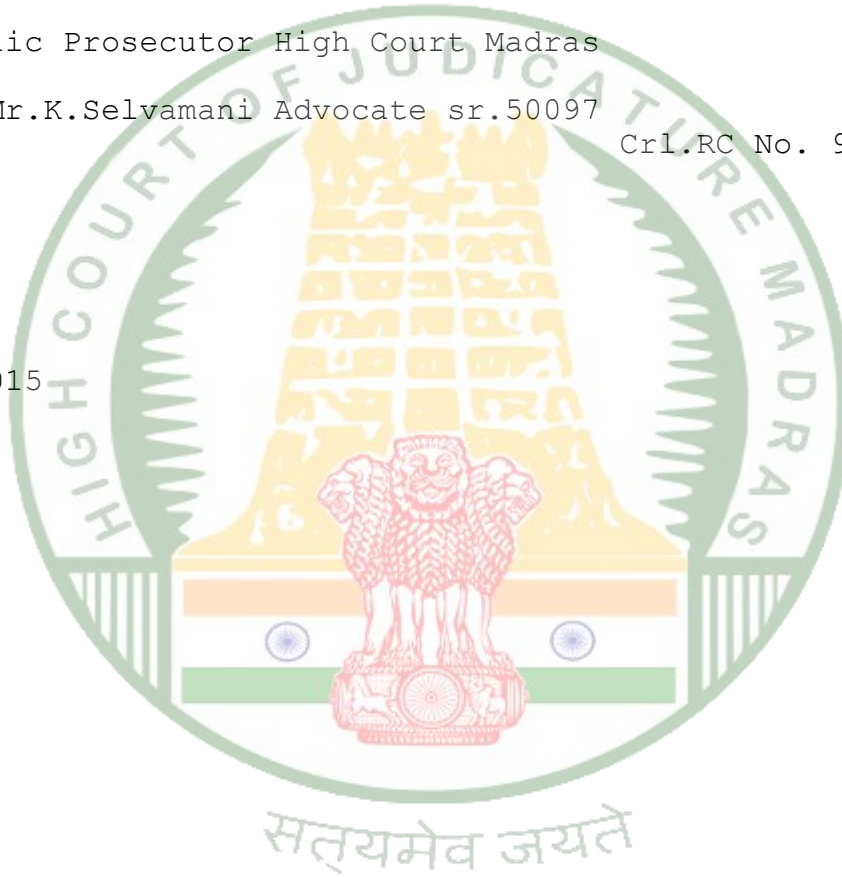
3. The Inspector of Police,
All Women Police Station, Villivakkam,
Chennai

4.The Public Prosecutor High Court Madras

+1 cc to Mr.K.Selvamani Advocate sr.50097

Crl.RC No. 930 & 978 of 2015

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