

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2015

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Crl.R.C.No.1244 of 2009

Durga Devi

.. Petitioner

Vs.

1. State rep. By Sub Inspector of Police
All Women Police Station
Ranipettai, Vellore District

2. K.Renugopal

.. Respondents

PRAYER: Criminal Revision Case filed under section 397 r/w.
401 Cr.P.C against the judgment in C.C.No.83/2007 dated
20.10.2009 on the file of the District Munsif-cum-Judicial
Magistrate No.1, Walaja.

For Petitioner : Mr.D.Rajagopal

For Respondent : Mr.V.Arul

Govt. Advocate (Crl.side) for R1

Mr.S.Sairaman for R2

ORDER

This Criminal Revision Petition has been filed against the
order passed by the learned District Munsif-cum-Judicial
Magistrate No.1, Walaja dated 20.10.2009 made in C.C.No.83/2007.

2. It is the case of the prosecution that the second
respondent called the petitioner over phone and informed that he
contracted second marriage and demanded money and that when the
petitioner asked him to return the jewels and Streedhana
properties given at the time of marriage with her, he refused and
threatened the petitioner.

3. Heard the learned counsel for the petitioner, Mr.V.Arul,
learned Government Advocate appearing for the first respondent
and Mr.S.Sairaman, learned counsel appearing for the second
respondent.

4. It is the submission of the learned counsel appearing for the petitioner that the lower Court has failed to note that the second respondent has subjected the petitioner herein to cruelty to attract the offence under Section 498A IPC r/w. Section 406 of IPC and has not properly considered the evidence especially the threatening made by the husband that he contracted second marriage and caused mental cruelty by demanding dowry. It is further contended that the lower Court failed to take into consideration the evidence of PWs.1 and 2 who had spoken about the demand of dowry from the petitioner. The lower Court further erred in holding that on the earlier complaint made by the petitioner, the Streedhana properties were retrieved by the second respondent and handed over to the petitioner.

5. Per contra, the learned counsel appearing for the second respondent would submit that the lower Court has rightly dismissed the petition stating that the fact of calling over phone and informing about the marriage already performed cannot attract Section 498-A IPC.

6. On a careful consideration of the entire evidence and also the judgment of the Court below, it is very clear that the lower Court has rightly come to the conclusion that the allegation of demand of dowry by the second respondent would arise only by way of threat that he would contract a second marriage on her failure to comply with the demand and not after performing the second marriage and hence, the demand for dowry as claimed by the petitioner has not been proved. Therefore, this Court do not find any infirmity in the order passed by the lower Court. However, the allegation made by the revision petitioner that her husband is living with another woman and begotten two children and she has also got birth certificate of the children to prove the same, cannot be gone into by this Court as the same would not come under the jurisdiction of this Court and the petitioner can proceed against the second respondent on the allegation of bigamy in accordance with law before the appropriate forum.

7. Accordingly, the criminal revision petition is dismissed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The District Munsif cum,
Judicial Magistrate
No.1, Walahaja.
2. The Sub Inspector Of Police,
All Women Police Station,
Ranipettai,
Vellore District.
3. The Public Prosecutor,
High Court,
Madras.

+1cc to M/s. s. Sairaman, Advocate sr.no.34567
+1cc to Mr.D.Rajagopal, Advocate sr.no.34687

Crl.R.C.No.1244 of 2009 &
M.P.Nos.1 to 3 of 2015

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