

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2015

CORAM

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.221 of 2010

Dhashanamoorthy

...Petitioner/Accused

Versus

State by:

The Inspector of Police
Thuthuoor Police Station
Perambalur District.

...Respondent/Complainant

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the Judgment dated 14.12.2009 passed by the learned Principal District and Sessions Judge, Perambalur in CrI.A.No.11 of 2009 in confirming the conviction and sentence ordered by the learned Judicial Magistrate, Ariyalur in C.C.No.1 of 2007 dated 19.08.2009.

For Petitioner : Mr.M.N.Balakrishnan,

For Respondent : Mr.V.Arul
Government Advocate
(Criminal side)

ORDER

The petitioner is the sole accused in C.C.No.1 of 2007 on the file of the learned Judicial Magistrate, Ariyalur and he has been convicted for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 1998 and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.5,000/-, in default, to undergo rigorous imprisonment for three months. As against the conviction and sentence imposed, the petitioner filed CrI.Appeal No.11 of 2009 and the first appellate Court by judgment dated 14.12.2009 confirmed the same. Aggrieved by the said order, the present Criminal Revision Case is filed.

2. The case of the complainant is that, the petitioner/accused on 06.12.2006 has abused the complainant's wife with unparliamentary words. Hence the complaint.

3. Learned counsel for the petitioner would mainly contend that the petitioner is not arguing on merits and he would only state that the parties are neighbors and they are trying to settle down the issue. Further, he would submit that the petitioner is repenting for his action. Since he is the sole bread winner in the family and he has three children to look after, seeks leniency only in awarding of sentence. He would further submit that the petitioner has already undergone incarceration for 25 days.

4. Learned Government Advocate (Crl.side) would only submit that both the Courts below have categorically taken note of the fact that the offence was proved by the prosecution in a manner known to law and accordingly, convicted the petitioner/accused, warranting no interference by this Court.

5. Heard both sides and perused the records.

6. On a careful perusal of the judgments passed by the Courts below, it is seen that both the Courts below have categorically held that the offence has been committed by the petitioner/accused though there are certain discrepancies in the evidence adduced by the witnesses. Hence, I do not find any reason to interfere with the conviction ordered by both the courts below.

7. Since the learned counsel for the petitioner argued the matter only in respect of the sentence awarded and also taking into consideration the fact that the petitioner has repented for his action and is trying to settle the matter, further he has also already undergone incarceration for 25 days and has also paid the fine amount of Rs.5,000/- ordered by the Courts below, while confirming the conviction ordered by both the Courts below, this Court is inclined to modify the sentence imposed for a period of six months' rigorous imprisonment into one that of payment of compensation of Rs.5,000/- to the defacto complainant. Accordingly, the following order is passed:

"The sentence to undergo one year rigorous imprisonment is modified into one that of the period already undergone by the petitioner. Further, the petitioner is directed to pay a sum of Rs.5,000/- [Rupees five thousand only], as compensation, to the defacto complainant in addition to the sum of Rs.5,000/- already paid by the petitioner as ordered by the Courts below. The petitioner is directed to deposit a sum of Rs.5,000/- [Rupees five thousand only] within a period of one month from the date of receipt of a copy of this order to the credit of C.C.No.1 of 2007 on the file of the learned Judicial Magistrate, Ariyalur. On such deposit being made, the learned

Magistrate is directed to disburse the compensation amount to the defacto complainant on proper identification. It is also made clear that if the petitioner/accused fails to deposit the compensation amount as ordered by this Court, within the stipulated time, he has to undergo rigorous imprisonment for a period of one year as ordered by the trial court and confirmed by the first appellate court. In such event, the trial court shall take appropriate steps as are necessary to secure the presence of the petitioner/accused to undergo the sentence of one year rigorous imprisonment imposed by the Courts below. It is needless to say that the sentence already undergone by the second petitioner can be given set off as contemplated under Section 428 of Cr.P.C."

8. With the above modification, the Criminal Revision Case is partly allowed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Judicial Magistrate,
Ariyalur.

2. The Judicial Magistrate,
Ariyalur.

3. The Principal District and Sessions Judge,
Perambalur

4. The Public Prosecutor,
Madras.

5. The Inspector of Police,
Thuthuoor Police Station
Perambalur District.

1 CC to Mr.M.N.Balakrishnan, Advocate SR.No. 52320

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CTK (CO)

PSI (02.11.2015)