

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.11.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Cr1.R.C.No.541 of 2009

A.Muthumari
S/o.Arunachalam

.. Petitioner

vs.

1.Nagaraja @ Raja
S/o.Mookaiya Asari1st Respondent/Appellant/Accused

2.State by
Inspector of Police,
B-8 Variety Hall Police Station,
Coimbatore.
Crime No.22 of 2000 Respondents/Respondents/Complainant

Criminal Revision filed under sections 397 and 401 of Criminal Procedure Code against the judgment of learned Additional District and Sessions Judge, Fast Track Court III, Coimbatore, passed in C.A.No.388 of 2007 on 16.05.2008 reversing the Judgment passed in S.C.No.16/2001 dated 21/8/2007 by the Principal Assistant Sessions Judge, Coimbatore.

For Petitioner : Mr.C.D.Sugumar

For Respondents: Mr.C.Iyyapparaj
Government Advocate [Cr1.side][R2]

O R D E R

This revision is preferred against the judgment of Additional District and Sessions Judge, Fast Track Court III, Coimbatore, passed in C.A.No.388 of 2007 on 16.05.2008.

2. The prosecution case was that the petitioner is the father of the deceased Kokila. First respondent and the deceased were married on 19.03.1999. At the time of marriage, 12 sovereigns of gold ornaments, a gold chain weighing 6 grams and other utensils had been presented to the first respondent/accused. On 24.01.2000, the accused, in an inebriated state, beat the deceased, insisted that she bring Rs.2,00,000/-

from her parents and compelled her to consume a solution of cowdung. Unable to bear the torture, the deceased consumed the same and died despite treatment on 25.01.2000 at about 01.10 a.m. A case in Crime No.22 of 2000 on the file of the second respondent was registered. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.498-A, 304-B and 306 IPC, the case was tried in S.C.No.16 of 2001 on the file of learned Principal Assistant Sessions Judge, Coimbatore.

3. The trial Court, at the first instance, acquitted the accused of all charges. Aggrieved thereby, the petitioner preferred Crl.R.C.No.2123 of 2002 before this Court. Under orders dated 11.04.2007, this Court observed that though offence u/s.304-B IPC was not attracted, offences u/s.498-A and 306 IPC were and remitted the matter to the trial Court for fresh consideration.

4. Before the trial Court, the prosecution examined fourteen witnesses and marked thirteen exhibits. One witness was examined on behalf of the defence and no exhibits were marked. On appreciation of materials before it, the trial Court, under judgment dated 21.08.2007, convicted the petitioner and sentenced him to undergo 1 year R.I. and fine of Rs.500/- i/d. 1 month R.I. for offence u/s.498-A IPC and 3 years R.I. and fine of Rs.500/- i/d. 1 month R.I. for offence u/s.306 IPC. The trial Court directed that sentences run concurrently. Against his conviction, the first respondent moved C.A.No.388 of 2007 on the file of learned Additional District and Sessions Judge, Fast Track Court III, Coimbatore, which came to be allowed under judgment dated 16.05.2008. There against, the present revision is filed.

5. Heard learned counsel for petitioner and learned Government Advocate [Crl.side] for second respondent.

6. In acquitting the first respondent/accused, the appellate Court found as follows:

- (i) Both PWs.1 and 2 admitted that the accused had borne all the marriage expenses. DW-1, uncle of the accused, deposed to having gone over to the house of PWs.1 and 2 at their request, of having advised the deceased and of having visited the house of the accused along with his wife, PWs.1 and 2 and the deceased and having left the deceased at the house of the accused during pongal. Hence, it was clear that it was the deceased who was in the habit of quarreling with the accused.
- (ii) PW-3, in chief examination, deposed to having had knowledge of the torture given by the accused, of having visited the house of the accused during pongal, of having conducted a

panchayat and of having advised the accused, whereas, in cross, he has deposed to not having visited the house of the accused during pongal. DW-1 also deposed that no panchayat has been conducted on such day. Hence, the contention of the defence that PW-3 was a cooked-up witness easily could not be brushed aside.

(iii) While PW-2 deposed of the accused having demanded a sum of Rs.1½ lakhs as marriage expenses from the deceased, DW-1 deposed of the accused having spent a sum of Rs.1¼ lakhs towards marriage. Hence, the contention of the accused having demanded a sum of Rs.2½ lakhs was found untenable. The mother of the accused, who was living with them, was not examined to substantiate such contention.

(iv) It was the evidence of PW-2 that she went to see her mother, who had suffered a bone fracture, along with her daughter Parasakathi and did not see the accused and the deceased at the house, whereas, in the statement given to PW-12, Revenue Divisional Officer, she had stated that she went to her mother's house along with her daughter at 07.00 p.m. and at that time, the accused came to the house and returned with his friends. While it was the evidence of PW-2 that the deceased informed her and her daughter Parasakathi about consumption of solution of cowdung at the instance of the accused, the non-examination of the deceased's sister Parasakathi was fatal to the prosecution case.

(v) The non-examination of the mother of the accused and his sister Krishnaveni, who were material witnesses to speak about the threat issued by the accused, creates doubt in the prosecution case.

(vi) Though PWs.1 and 2 deposed to the accused having had illicit relationship with one Selvi and that he had obtained signatures of the deceased in blank papers towards marrying the said Selvi, they themselves had admitted that the said Selvi was already married and had two children. Hence, their version that the accused tortured the deceased towards marrying the said Selvi was not reliable.

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For the above and for some other reasons, the appellate Court has held that the prosecution has failed to prove its case beyond all reasonable doubt and accordingly, acquitted the accused of all charges. This Court finds no error in the judgment under challenge.

This Criminal Revision stands dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1.The Additional District and Sessions Judge,
Fast Track Court III,
Coimbatore.
 - 2.The Principal Assistant Sessions Judge,
Coimbatore.
 - 3.The Principal Sessions Judge,
Coimbatore.
 - 4.The Inspector of Police,
B-8 Variety Hall Police Station,
Coimbatore.
 - 5.The Public Prosecutor,
High Court, Madras.
- +1cc to Mr.C.D.Sugumar, Advocate, S.R.No.64871

Cr1.R.C.No.541 of 2009

vgi(CO)
srg(04/02/2016)

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