

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2015

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1161 of 2013

1.Sampath
S/o.Vediappan

2.Thangammal
W/o.Vediappan

3.Padmini
W/o.Thamizhendi

4.Malar
W/o.Sakthivel

.. Petitioners/Appellants/Accused

vs.

State represented by
The Sub-Inspector of Police,
All Women Police Station,
Arur.

... Respondent/Respondent/Complainant

Criminal Revision filed under Sections 397 (1) and 401 Cr.P.C. against the judgment of learned Additional Sessions Judge, Dharmapuri, passed in C.A.No.23 of 2013 on 29.07.2013 confirming the judgment of learned District Munsif cum Judicial Magistrate, Pappireddipatti, passed in C.C.No.405 of 2008 on 23.05.2013.

For Petitioners: Mr.N.R.Elango, senior counsel
for Mr.S.Arivazhagan

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

O R D E R

This revision arises against two concurrent judgments of Courts below convicting petitioners for offences u/s.498-A IPC and 4 of Dowry Prohibition Act and sentencing them to undergo 1 year S.I. for each offence and fine of Rs.2,000/- for each offence i/d 3 months and 2 months S.I. respectively.

2. The prosecution case is that petitioners are husband, mother-in-law and sisters-in-law of the de facto complainant/PW-1. The marriage of first petitioner and PW-1 was solemnized on 29.01.2007. The allegation against petitioners is that they demanded dowry from PW-1 and harassed her. A case was registered in Crime No.08/08 on the file of the respondent. Upon completion of investigation and filing of charge sheet informing commission of offences u/s.498-A IPC and 4 of Dowry Prohibition Act against all accused and 506(ii) IPC against A2, the case was tried in C.C.No.405 of 2008 on the file of learned District Munsif cum Judicial Magistrate, Pappireddipatti.

3. Before the trial Court, the prosecution examined eleven witnesses and four exhibits. None were examined on behalf of the defence nor were any exhibits marked. On appreciation of materials before it, the trial Court, under judgment dated 23.05.2013, convicted petitioners for offences u/s.498-A IPC and 4 of Dowry Prohibition Act and sentenced them to undergo 1 year S.I. and fine of Rs.2,000/- for each offence i/d 3 months and 2 months S.I. respectively. The appeal preferred by petitioners in C.A.No.23 of 2013 on the file of learned Additional Sessions Judge, Dharmapuri, came to be dismissed under judgment dated 29.07.2013. There against, the present revision has been filed.

4. Learned senior counsel for petitioners submitted that the first petitioner, then aged 39 and the de facto complainant/PW-1, then aged 19, entered upon marriage on 29.01.2007. They lived together for two months and thereafter, the first petitioner/A1 went overseas for employment and returned in 2008. They lived together for a further period of two months and then owing to differences PW-1/wife left the matrimonial home. The prosecution allegation is that differences arose owing to A1 wishing to marry the daughter of A3, his sister. There were demands for dowry. Learned senior counsel referred to the testimony of PW-1 to inform that though PW-1 had left the matrimonial home in June 2008, the complaint in the case had been preferred only in August 2008. PW-2, father of PW-1, in his very chief examination has spoken to efforts at mediation having failed, of a complaint having been preferred by first petitioner/A1 alleging that PW-1/wife had aborted a foetus and there upon police had interrogated them. He had admitted that it was only thereafter that the complaint in the case stood filed by PW-1. PW-4, mother of PW-1, again in chief examination, had admitted to the complaint of the accused being prior in point of time. PW-6, grand father of PW-1, deposed to PW-1 having joined a Teachers Training course at Bangalore, she having stayed at the house of first petitioner/A1's sister, first petitioner/A1 having left overseas and of PW-1 having had to discontinue her course owing to non-payment of fees and of the demand for money having been made in relation thereto. While PW-3, a relative of PW-1, has been treated hostile, the evidence of PW-8 was that there were

domestic quarrels between PW-1 and petitioner/A2, her mother-in-law. Learned senior counsel further contended that both A3 and A4 were staying far away at Bangalore. Learned senior counsel contended that the given scenario pointed to the preference of a false complaint against petitioners. Learned senior counsel contended that petitioners ought to have been acquitted in the case.

5. In support of his contentions, learned senior relied on the decisions of the Apex Court in Preeti Gupta and another v. State of Jharkhand and another [2010 (7) SCC 667].

6. Heard learned Government Advocate [Crl.side] on the above submissions.

7. Paragraphs 30 to 37 of the decision in Preeti Gupta inform thus:

"30. It is a matter of common knowledge that unfortunately matrimonial litigation is rapidly increasing in our country. All the courts in our country including this Court are flooded with matrimonial cases. This clearly demonstrates discontent and unrest in the family life of a large number of people of the society.

31. The courts are receiving a large number of cases emanating from Section 498-A of the Indian Penal Code which reads as under:-

"498-A. Husband or relative of husband of a woman subjecting her to cruelty.--Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.--For the purposes of this section, 'cruelty' means:-

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand."

32. It is a matter of common experience that most of these complaints under Section 498-A IPC are filed in the heat of the moment over trivial issues without

proper deliberations. We come across a large number of such complaints which are not even bona fide and are filed with oblique motive. At the same time, rapid increase in the number of genuine cases of dowry harassment is also a matter of serious concern.

33. The learned members of the Bar have enormous social responsibility and obligation to ensure that the social fibre of family life is not ruined or demolished. They must ensure that exaggerated versions of small incidents should not be reflected in the criminal complaints. Majority of the complaints are filed either on their advice or with their concurrence. The learned members of the Bar who belong to a noble profession must maintain its noble traditions and should treat every complaint under Section 498-A as a basic human problem and must make serious endeavour to help the parties in arriving at an amicable resolution of that human problem. They must discharge their duties to the best of their abilities to ensure that social fibre, peace and tranquillity of the society remains intact. The members of the Bar should also ensure that one complaint should not lead to multiple cases.

34. Unfortunately, at the time of filing of the complaint the implications and consequences are not properly visualized by the complainant that such complaint can lead to insurmountable harassment, agony and pain to the complainant, accused and his close relations.

35. The ultimate object of justice is to find out the truth and punish the guilty and protect the innocent. To find out the truth is a Herculean task in majority of these complaints. The tendency of implicating the husband and all his immediate relations is also not uncommon. At times, even after the conclusion of the criminal trial, it is difficult to ascertain the real truth. The courts have to be extremely careful and cautious in dealing with these complaints and must take pragmatic realities into consideration while dealing with matrimonial cases. The allegations of harassment of husband's close relations who had been living in different cities and never visited or rarely visited the place where the complainant resided would have an entirely different complexion. The allegations of the complaint are required to be scrutinised with great care and circumspection.

36. Experience reveals that long and protracted criminal trials lead to rancour, acrimony and bitterness in the relationship amongst the parties. It is also a matter of common knowledge that in cases filed by the complainant if the husband or the husband's relations had to remain in jail even for a few days, it would ruin the chances of amicable settlement altogether. The process of suffering is extremely long and painful.

37. Before parting with this case, we would like to observe that a serious relook of the entire provision is warranted by the legislature. It is also a matter of common knowledge that exaggerated versions of the incident are reflected in a large number of complaints. The tendency of over implication is also reflected in a very large number of cases. The criminal trials lead to immense sufferings for all concerned. Even ultimate acquittal in the trial may also not be able to wipe out the deep scars of suffering of ignominy. Unfortunately a large number of these complaints have not only flooded the courts but also have led to enormous social unrest affecting peace, harmony and happiness of the society. It is high time that the legislature must take into consideration the pragmatic realities and make suitable changes in the existing law. It is imperative for the legislature to take into consideration the informed public opinion and the pragmatic realities in consideration and make necessary changes in the relevant provisions of law."

8. This Court is of the considered view that in the admitted position where the complaint against petitioners is subsequent to that preferred by first petitioner/A1, Courts below ought to have been wary of the possibility of the same being merely a counter blast. The very grand father of PW-1 has been treated hostile. His evidence discloses that the demand for money was not in relation to dowry but towards pursuing PW-1's education. In the facts and circumstances of the case, there is every likelihood of false implication and the further implication of A3 and A4, persons living far away at Bangalore, is indicative of one more present day attempt to rope in all the family members of the accused. This Court is of the view that petitioners are entitled to the benefit of doubt.

Accordingly, this Criminal Revision is allowed. The judgment of learned Additional Sessions Judge, Dharmapuri, passed in C.A.No.23 of 2013 on 29.07.2013 confirming the judgment of learned District Munsif cum Judicial Magistrate,

Pappireddipatti, passed in C.C.No.405 of 2008 on 23.05.2013, is set aside. Petitioners are acquitted of all charges. Fine amount, if any, paid by them shall be refunded. Bail bonds, if any, executed by them shall stand cancelled.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gm

To

1.The Additional Sessions Judge,
Dharmapuri.

2.The District Munsif cum Judicial Magistrate,
Pappireddipatti.

3.The Sub-Inspector of Police,
All Women Police Station,
Arur.

4.The Public Prosecutor,
High Court, Madras.

+ 1 cc to M/s. S. Arivazhagan, Advocate SR.67019

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AD(CO)

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