

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

CrI.Revision Case No.568 of 2009

and

MP.No.1 of 2009

A. Senthil

.. Petitioner/4th Accused

vs

State rep.by
Inspector of Police
Podanur Police Station
Coimbatore

.. Respondent/Complainant

Revision Case filed under Sections 397 read with Sec. 401 of Cr.P.C to call for the records of the trial Court and the appellate Court in C.A.No.2 of 2001 dated 21.1.2009 on the file of the Principal Sessions Judge, Coimbatore confirming the judgment of the trial Court in C.C.No.124 of 1991 dated 05.12.2000 on the file of the Judicial Magistrate No.7, Coimbatore whereby imposing three month Rigorous Imprisonment and imposing Rs.500/- and set aside the conviction and sentence against the revision petitioner.

For Petitioner : Mr.C.Anandaramani

For Respondent : Mr.V.Arul, Government Advocate

ORDER

Revision case is filed against the conviction and sentence imposed against the petitioner by the Courts below for the offence under Section 498(A).

2. The case of the prosecution is that the marriage between the first accused and P.W.1 was solemnized in the year 1979 and they were living together along with children at Edaiyarpalayam. Thereafter, the first accused demanded dowry and also threatened her with dire consequences, for which, the accused 2 to 5 abetted with him. Based on the complaint given by P.W.1, a case has been registered and after investigation charge sheet has been laid against the accused for the offence under Section 498 A IPC. After due trial, the trial Court convicted the accused and sentenced the first accused to undergo one year Rigorous Imprisonment and to pay a fine of Rs.1,000/- and in default, to undergo 1 month Simple Imprisonment and sentenced the accused 2 to 4 to undergo 3 months Rigorous Imprisonment and to pay a fine

of Rs.500/- each and in default to undergo one month Simple Imprisonment. Against which, appeal has been filed and the same was also dismissed by the appellate Court confirming the judgment of the trial Court. Aggrieved over the said judgment and decree, the fourth accused has preferred this revision.

3. According to the revision petitioner, he is the paternal uncle of the first accused / husband. The only allegation made against the petitioner is that whenever dispute arises between the husband and wife, he has given protection to the first accused/husband. According to the revision petitioner, except this statement, no specific overtact has been made against him. Even according to the prosecution, the petitioner has committed the offence of abetment and even for that, there is no specific overtact against him.

4. The learned Government Advocate opposed the Criminal Revision case at the instance of the petitioner/fourth accused and contended that it is not a case of no evidence. The learned Government Advocate submitted that specific allegations has been made with regard to the abetment. Therefore, he prayed for dismissal of the Criminal Revision Petition.

5. The main grievance of the petitioner is that both the courts below failed to take into consideration that there was no specific overtact against the petitioner in this case.

6. On a careful perusal of the entire records, it is clear that no specific overtact has been made against the petitioner. The petitioner is the uncle of the first accused. In fact, whenever the difference of opinion arises between the first accused and his wife, he tried to pacify them and that has been misconstrued as if he has been trying to support the first accused. Except this statement, no specific overtact has been made against this petitioner. Merely because the revision petitioner is the uncle of the first accused, he has been roped in this case. There is no specific overtact attributable on the part of the petitioner/fourth accused. Even in the judgment of the trial court, it was found that there is nothing against the petitioner/A4 to connect him to the offence punishable under Section 498 A of IPC and therefore, the trial court ought not to have imposed the conviction and sentence on the petitioner/fourth accused. A reading of the judgment of the first appellate Court would also indicate that no where reference is made with regard to any overt act against the petitioner. Even on reading of the evidence of the prosecution would make it clear that the petitioner did nothing in the commission of offence. Hence, I am of the view that the conviction and sentence imposed on the petitioner is liable to be set aside. Accordingly, the conviction and sentence imposed on the petitioner by the Courts below are set aside. The fine amount paid by the petitioner, if any, is directed to be returned to him.

The Criminal Revision Case is allowed. Consequently,
connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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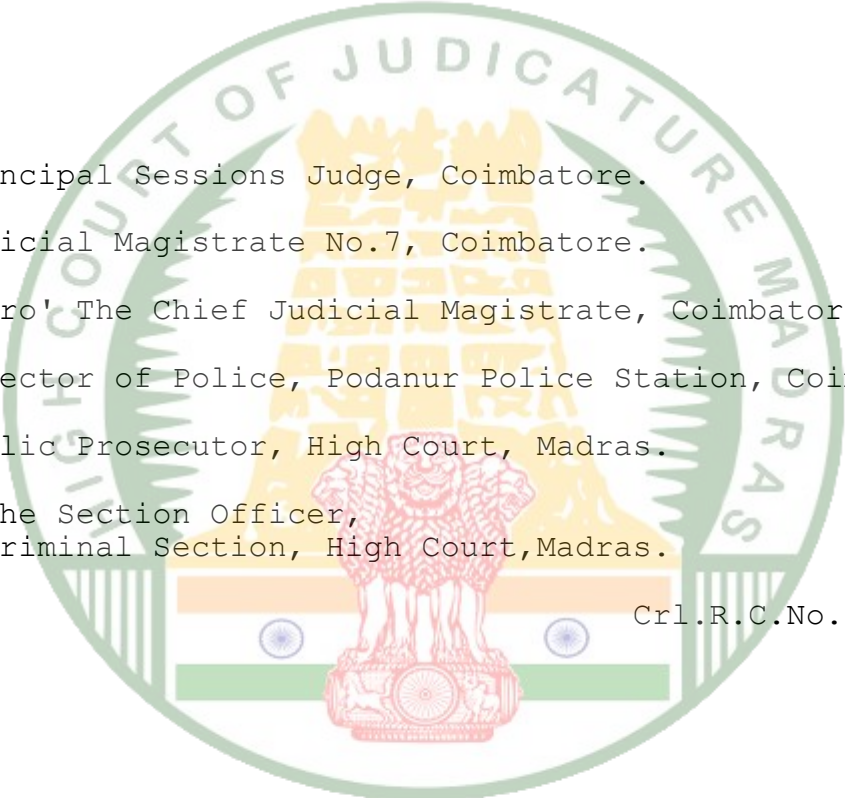
To

1. The Principal Sessions Judge, Coimbatore.
2. The Judicial Magistrate No.7, Coimbatore.
3. -do- Thro' The Chief Judicial Magistrate, Coimbatore.
4. The Inspector of Police, Podanur Police Station, Coimbatore.
5. The Public Prosecutor, High Court, Madras.

Copy to: The Section Officer,
Criminal Section, High Court, Madras.

Crl.R.C.No.568 of 2009

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