

BAIL SLIP

That the 1st Appellant herein/Accused No.1 viz. Magudeeswaran, S/o.Karuppusamy and the Appellants 2 & 3 herein/Accused No.2 & 3 viz. Nagammal, W/o.Karuppusamy, Thayar, W/o.Sabarinathan, were directed to be released on bail as per order of this Court dt.6.5.09 & 30.3.09 in MP.No.2/09 in CrI.A.No.144/09 & Mp.1/09 in CrI.A.No.144 respectively on the file of this court.

IN THE HGIH COURT OF JUDICATURE AT MADRAS

DATED: 28-11-2016

CORAM:

THE HONOURABLE DR. JUSTICE P.DEVADASS

Criminal Appeal No.144 of 2009
and

CrI.M.P.No.12655 of 2016

1.Magudeeswaran
2.Nagammal
3.Thayar

... Appellants/A-1 to A-3

vs.

State

The Inspector of Police,
All Women Police Station,
Pollachi

(Crime No.1 of 2007)

.. Respondent/Complainant

This Criminal Appeal is preferred under Section 374 (2) of Cr.P.C., against the judgment of the learned Sessions Judge, Magalir Neethimandram, Coimbatore in SC No.13 of 2008 dated 16.3.2009.

For Appellants

:M/s.S.Gunalan and B.Kumarasamy

For Respondent

:Mr.R.Sekar,
Government Advocate
(Criminal Side).

J U D G M E N T

A-1 to A-3 in the Sessions Case in SC No.13 of 2008 on the file of the learned Additional Sessions Judge, Mahila Court, Coimbatore are the appellants.

2. In the Trial Court, after trial, they were convicted and sentenced as detailed below:-

Accused	Conviction	Sentence
A-1	(i) Section 4 of Dowry Prohibition Act (ii) Section 498-A IPC (iii) Section 406 IPC (iv) Section 307 IPC	6 months SI 3 years RI and fine Rs.1,000/-, i/d 1 year SI 1 year RI 10 years RI and fine Rs.5,000/-, i/d 1 year SI
A-2	(i) Section 4 of Dowry Prohibition Act (ii) Section 498-A IPC	6 months SI 3 years RI and fine Rs.1,000/-, i/d 1 year SI
A-3	(i) Section 4 of Dowry Prohibition Act (ii) Section 498-A IPC	6 months SI 3 years RI and fine Rs.1,000/-, i/d 1 year SI

All their sentences were directed to run concurrently. They have paid the fine amounts.

3. The case of the prosecution, in brief, runs as under:-

(1) A-1 and A-3 are son and daughter of A-2. A-1 married PW-1. They were blessed with a male child. A-1 to A-3 were alleged to have subjected PW-1 to dowry torture.

(2) On 8.1.2007, midnight, in order to do away with PW-1, the accused poured Kerosene upon her and also pressed her nose with a pillow.

(3) PW-8, Inspector, All Women Police Station, Pollachi, received Ex.P-1 complaint from PW-1. Registered this case. Investigated it. He examined PW-1 and other material witnesses and recorded their statement under Section 161 Cr.P.C. Prepared Ex.P-4 observation mahazar in the presence of PWs-6 and 7. PW-5/Doctor found no external injuries on PW-1. Completing his investigation, PW-8 filed the Final Report against A-1 to A-3 for offences under Section 4 of Dowry Prohibition Act, Sections 498-A, 406 and 307 IPC.

4. Upon the said Final Report, the learned Magistrate took cognizance. Gave them copies of documents under Section 207 Cr.P.C. Since offence under Section 307 IPC is involved, committed the case to the Court of Sessions, Coimbatore. The learned Principal Sessions Judge made over the case to the learned Additional Sessions Judge, Mahila Court, Coimbatore.

5. The Trial Court upon hearing both sides and on

consideration of the case-records, framed charges against them and the accused have pleaded not guilty to the charges.

6. To substantiate the charges, prosecution examined PWs-1 to 8 and marked Exs.P-1 to P-6.

7. The Trial Court examined the accused under Section 313 Cr.P.C on the incriminating aspects in the prosecution evidence. The accused denied the offences. There was no defence evidence.

8. Appreciating the arguments of the learned Additional Public Prosecutor and the learned defence counsel and the recorded evidence, the Trial Court convicted the appellants and sentenced them as already stated.

9. The accused have preferred this Criminal Appeal.

10. The learned counsel for the appellants submitted that A-1 and PW-1 are closely related. Now they have joined together. In the circumstances, if the accused is sent to jail, his family will be ruined, future of their son, who is studying +1 also will be spoiled and he will miss his father.

11. Heard the learned Government Advocate.

12. PW-1 and A-1 are present in the Court. A-2 is now 70 years old. A-3 is also age-old. PW-1 confirmed that they are aged and sick.

13. I have anxiously considered the submissions of both sides, perused the impugned judgment and the entire materials on record.

14. PW-1 is the wife of A-1. A-2 and A-3 are A-1's mother and elder sister respectively. They are in-laws of PW-1. PW-1 is closely related to A-1 to A-3.

15. The evidence of PW-1 is very crystal clear as to the overtact of the accused persons. No dent has been made by the defence in cross-examining her. Further, PWs-2 and 3 who are parents of PW-1, have very clearly corroborated her. Nothing has been obtained by the defence during the cross-examination of PWs-2 and 3 also. The charges levelled against the accused are substantiated by the evidence adduced. Thus, the Trial Court has rightly convicted A-1 to A-3.

16. In this appeal, PW-1 filed Crl.M.P.No.12655 of 2016 under Section 320 Cr.P.C.

17. The offences are non-compoundable.

18. A-2 is sister of PW-2, who is the father of PW-1. Thus the accused and PW-1 are very closely related. They are having a son. He is now studying +1 in a school.

19. In the petition, filed today, in paragraph-3, it is stated as under:-

"Pending appeal, the petitioners and the defacto complainant have undergone untold mental agony. They want to live peacefully in their life and hence they decided to reunite in the matrimonial home. Therefore, the well wishers of both the families helped compromised the dispute between the petitioners and the defacto complainant; as per the well wishers' advice the first petitioner and the defacto complainant have rejoined in the matrimonial home. Hence, the defacto complainant is living with the first petitioner. The second respondent/defacto complainant accepted to compound the offence. Further, the defacto complainant has no objection to discharge the petitioners from the charges under Section 4 of Dowry Prohibition Act and under Sections 498(A), 406 & 307 of IPC. Hence, in the interest of justice, the compromise can be accepted and the petitioners may be acquitted from all the charges. The defacto complainant has also filed separately a consent affidavit agreeing to the compounding of the offences and for allowing the appeal."

20. Now in this case, PW-1 did not suffer any injury. A-1 and PW-1 are closely related and they have a son. He is studying +1 Course in a school. Due to some misunderstanding the occurrence took place. Now PW-1 herself has come forward to pardon her husband and both are now very much concerned about the future of their son. In such circumstance, sending the accused to jail does not serve any purpose rather it will promote enmity and mar peace between the spouses. [see Narinder Singh and others vs. State of Punjab and Another {(2014) 6 SCC 466}].

21. Before us there are smiling faces. The accused and PW-1 are cheerful. If I send the accused to jail, their cheerfulness will fade away. This is not the aim and purpose of law. We take into account the subsequent developments taken place between the spouses and the future of their only grown up

son.

22. This Court appreciate the efforts taken by Mr.S.Gunalan and Mr.B.Kumarasamy, Advocates in uniting these couples and apart from being Lawyers, they played the role of a Good Samaritan. Their mediation yield a very good result, saved a family from being ruined.

23. In the circumstances, it is held as under:-

(1) This Criminal Appeal is partly allowed;

(2) The conviction of A-1 under Section 4 of Dowry Prohibition Act, Sections 498-A, 406 and 307 IPC, the conviction of A-2 and A-3 under Section 4 of Dowry Prohibition Act, Section 498-A IPC are confirmed;

(3) They were sentenced to period already undergone;

(4) Their sentence of fine is maintained;

(5) Consequently, connected Crl.M.P.No.12655 of 2016 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Svn
Copy to:

- (i) Principal Sessions Judge,
Coimbatore.
- (ii) Additional Sessions Judge,
Mahila Court,
Coimbatore.
- (iii) Judicial Magistrate No.I,
Pollachi,
Coimbatore District.
- (iv) do through The Chief Judicial Magistrate,
Coimbatore.
- (v) Superintendent,
Central Prison, Coimbatore.
- (vi) Inspector of Police,
All Women Police Station,
Pollachi,
Coimbatore District.

(vii) The District Collector,
Coimbatore

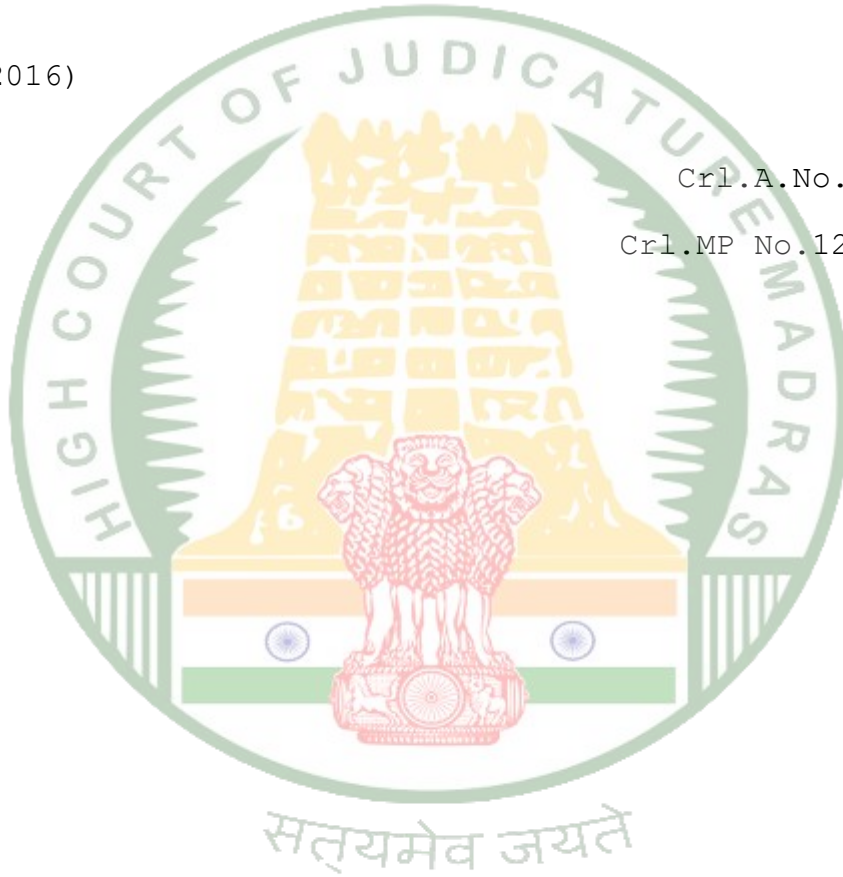
(viii) The Director General of Police
Mylapore, Chennai

(ix) The Public Procecutor
High Court Madras 104

+1cc to The Section Officer Current Section, High Court, Madras
+1cc to Mr.S.Gunalan, Advocate, S.R.No.69523

RJ(CO)
BB(28/12/2016)

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and
Crl.MP No.12655 of 2016



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