

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.09.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.20136 of 2016

1.K.Krishna Moorthy
2.K.Murugan
3.K.Saroja
4.M.Lakshmi
5.R.Rani
6.V.Mohan Kumar
7.G.Ramesh
8.K.Selvam
9.S.Chandra

...Petitioners

Vs.

1.The State Government of Tamil Nadu
rep. by The Inspector of Police
All Women Police Station,
Dharmapuri District.

2.Lavanya
W/o.Krishna Moorthy
Chinnappa Chetty Colony Street,
Pidamaneru,
Dharmapuri District

...Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the Principal District Judge, Dharmapuri and set aside the order of conviction in C.C.No.86 of 2014 dated 09.09.2015 on the file of the Judicial Magistrate I, Dharmapuri and to permit the petitioners and the 2nd respondent to compound the case in C.C.No.86 of 2014, which is subject matter of C.A.No.20 of 2015 on the file of the Principal District Judge, Dharmapuri

For Petitioners : Mr.R.Srinivas
for Mr.A.Sakthivel

For R1 : Mr.C.Emalias
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to issue a direction to the Principal District Judge, Dharmapuri and to set aside the order of conviction in C.C.No.86 of 2014 dated 09.09.2015 on the file of the Judicial Magistrate I, Dharmapuri and to permit the petitioners and the 2nd respondent

to compound the case in C.C.No.86 of 2014, which is the subject matter of C.A.No.20 of 2015 on the file of the Principal District Court, Dharmapuri.

2.For the sake of convenience, the parties are referred to by their name.

3.It is seen that K.Krishna Moorthy got married to Lavanya on 22.11.2009 and their marriage ran into rough weather. On the complaint lodged by Lavanya, the first respondent-Police registered a case in Crime No.31 of 2013 and after completing investigation, the first respondent Police filed a final report in C.C.No.86 of 2014 against Krishna Moorthy and eight others for the offence under sections 498 (A),294(b) and 506(i) IPC r/w Section 4 of the Dowry Prohibition Act before the Judicial Magistrate, Dharmapuri. All the nine accused were convicted by the trial court on 09.09.2015 in C.C.No.86 of 2014 under section 498(A) IPC and Section 4 of the Dowry Prohibition Act and all the accused were sentenced to various terms of imprisonment, the maximum being three years sentence for Krishna Moorthy-A1 under section 498(A) IPC. Challenging the conviction and sentence, the accused filed an appeal in C.A.No.20 of 2015 and the same is pending before the Principal District Court, Dharmapuri.

4.While so, it appears that Krishna Moorthy and Lavanya have reconciled the differences and they have re-joined. They filed an application before the Appellate Court for compounding, which was rightly dismissed by the Appellate Court on the ground that offence under section 498(A) IPC and Section 4 of the Dowry Prohibition Act cannot be compounded. Hence, they are before this Court relying upon the judgment of the Supreme Court in B.S.Joshi and others Vs. State of Haryana and another - AIR 2003 Supreme Court 1386.

5.The parties have filed a joint memo of compromise wherein they have stated as follows:

"The parties above named humbly submits as follows.

1.The 1st petitioner and the 2nd respondent above named have negotiated between themselves with the help of friends and well-wishers and they have decided to amicably settle their disputes and differences between themselves and by virtue of such an understanding and settlement they are filing the following Memorandum of Compromise.

2.The parties submits that the 1st petitioner and the 2nd respondent have reunited. In the view of the reunion this Hon'ble court may set aside the order of conviction against the petitioners

in C.C.No.86 of 2014 dated 09.09.2015 on the file of the Judicial Magistrate I, Dharmapuri, and quash the case in case in C.C.No.86 of 2014, which is the subject matter of C.A.No.20 of 2015 on the file of the Principal District Judge, Dharmapuri."

6.Lavanya is before this Court and she is accompanied by her paternal uncle Chandran. This Court enquired them individually to find out whether the compromise has been effected only to get over the conviction and sentence imposed by the trial court. Both of them submitted that there has been genuine change of heart and that Krishna Moorthy and Lavanya have reunited and that they are living together for the last three months.

7.In Narinder Singh and Others Vs State of Punjab and Another [(2014) 6 SCC 466], the Supreme Court has held that, where the conviction is already recorded by the trial Court, the compromise between the parties would not be a ground for quashing the prosecution. However, in this case, this Court finds that there has been a genuine reunion and therefore, the prosecution of Krishna Moorthy and his family members can be quashed especially given the fact that this is a matrimonial dispute where the parties have amicably settled the issue with a view to lead a happy married life.

8.In the result, this petition is allowed and the conviction and sentence imposed upon all the accused in C.C.No.86 of 2014 by the Judicial Magistrate-I, Dharmapuri are hereby set aside and the accused are acquitted of all charges. Fine, if any, paid by the accused shall be refunded.

9.In view of the above, Criminal Appeal No.20 of 2015 on the file of the Principal District Court, Dharmapuri becomes infructuous.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rm

To

1.The Inspector of Police
All Women Police Station,
Dharmapuri District.

2.The Principal District Judge,
Dharmapuri (C.A.No.20 of 2015)

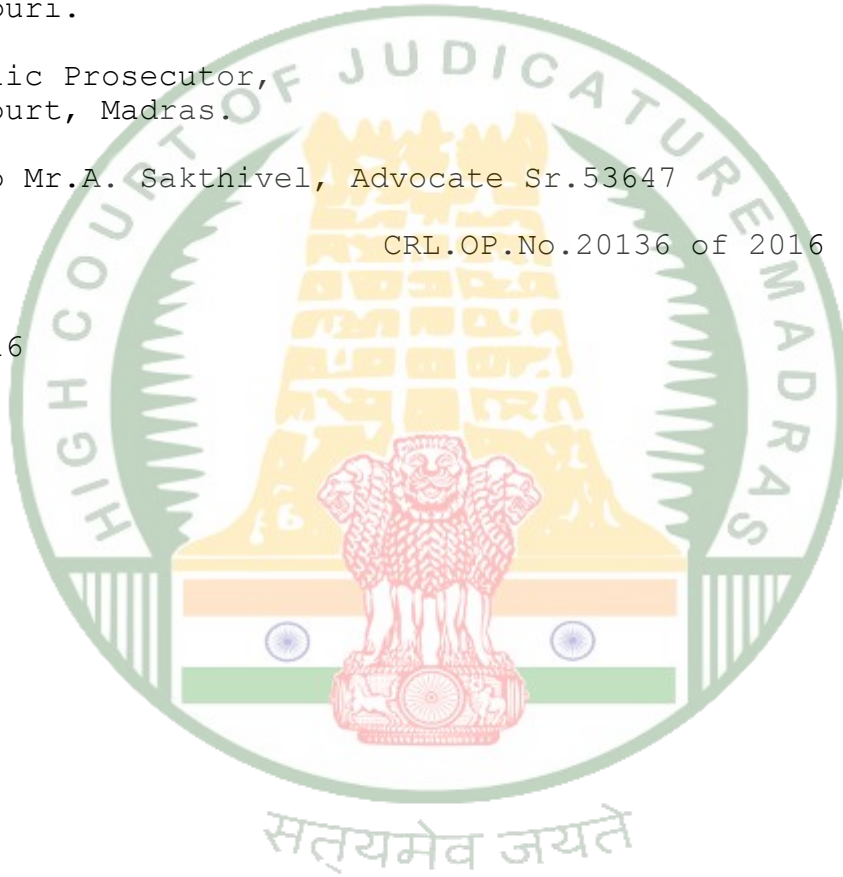
3.The Judicial Magistrate No.I,
Dharmapuri.

4.The Public Prosecutor,
High Court, Madras.

+ 2 ccs to Mr.A. Sakthivel, Advocate Sr.53647

CRL.OP.No.20136 of 2016

KS(CO)
EU 04.10.16



WEB COPY