

BAIL SLIP

The Accused namely Viz, 1.Narendran S/o.Krishnan 2.Mrs.Kanchana W/o.Ranganathan and 3.M.Krishnan S/o.Ranganathan were directed to release on bail made in MP.No.1/08 dated 25.04.2008 of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.9016 of 2016

and

Crl.A.No.302 of 2008 & Crl.M.P.No.105/2016

1.Narendiran
2.Kanchana
3.Krishnan

Petitioners in Crl.O.P.9016/2016
& Appellants in
Crl.A.No.302/2008

Vs

The State rep by
The Inspector of Police
W-29 All Women Police Station
Avadi, Chennai.

Respondent in both Crl.O.P.
9016/2016 and Crl.A.302/2008

Criminal Original Petition filed under Section 482 Cr.P.C., to quash the judgment of conviction and order of sentences dated 26.03.2008 made in S.C.No.169/2007 on the file of the Additional District Sessions Judge, Poonamallee (Fast Track Court No.IV).

Criminal Appeal filed u/s 374(2) Cr.P.C. to call for the records in S.C.No.169/2007 on the file of the Additional District and Sessions Judge, (Fast Track IV), Poonamallee and to examine the same and to set aside the judgment and conviction passed against the appellants by the Hon'ble Additional District and Sessions Judge, (Fast Track-IV), Poonamallee in S.C.No.169 of 2007 dated 26.03.2008.

For petitioners/appellants : Mr.R.Ravindran
For respondent : Mr.C.Emalias
Addl.Public Prosecutor
For Defacto Complainant
in Crl.OP :Mr.R.Y.George williams

O R D E R

While Crl.O.P. No.9016 of 2016 has been filed to quash the judgment of conviction and order of sentences dated 26.03.2008 made in S.C.No.169/2007 on the file of the Additional District Sessions Judge, Poonamallee (Fast Track Court No.IV), Crl. A. No.302 of 2008 has been filed to call for the records in the aforesaid Sessions Case, viz., S.C. No.169 of 2007, to examine the same and set aside the judgment and conviction passed against the appellants in the judgment dated 26.03.2008 in the said Sessions Case.

2. Heard both sides.

3. For the sake of convenience, the parties will be referred to by their name.

4. On the complaint lodged by Valarmathi (P.W.1), the respondent police registered a case in Crime No.1 of 2006 and after completing the investigation, filed a final report in P.R.C. No.12 of 2007 before the Judicial Magistrate Court No.I, Poonamallee for offences under Sections 498-A and 313 IPC and Section 4 of the Dowry Prohibition Act, against the appellants herein. On appearance, the accused were served with the copies of the records and the case was committed to the Principal District and Sessions Judge, Thiruvallur, who made over the case in S.C. No.169 of 2007 to the file of the Additional District and Sessions Court (Fast Track Court No.IV) Poonamallee.

5. The Trial Court framed the following charges against the accused:

- i Cruelty by husband and relatives under Section 498-A IPC;
- ii Causing miscarriage without woman's consent under Section 313 IPC; and
- iii Dowry demand under Section 4 of the Dowry Prohibition Act.

6. When questioned, the accused pleaded not guilty. The prosecution examined 14 witnesses and marked 5 exhibits. When the accused were questioned under Section 313 Crl.P.C., they

denied the incriminating circumstances against them. No evidence was adduced on behalf of the accused.

7. After hearing either side, the Trial Court acquitted the accused for the offence under Section 313 IPC and convicted and sentenced them to undergo (i) three years rigorous imprisonment and to pay a fine of Rs.5,000/- each, in default, to undergo six months simple imprisonment for offence under Section 498-A IPC and (ii) one year rigorous imprisonment and to pay a fine of Rs.5,000/- each, in default, to undergo three months simple imprisonment for offence under Section 4 of the Dowry Prohibition Act, challenging which, the accused are before this Court in this appeal.

8. When the appeal was taken up for hearing, the appellants and Valarmathi (P.W.1 & de facto complainant) appeared before this Court and submitted that they have arrived at a mutual compromise on certain terms, one of which, is that the first appellant (A.1) should pay a total sum of Rs.20 lakhs, of which Rs.10 lakhs has already been paid in the name of the female child N. Drithi in a fixed deposit on 12.10.2015 in Canara Bank, Thiruninravur Branch. The first appellant has undertaken to pay the balance sum of Rs.10 lakhs/- at the time of recording evidence in the mutual consent petition filed by the parties under Section 13-B of the Hindu Marriage Act in F.C.O.P. No.4029 of 2015 before the II Additional Family Court, Chennai.

9. Valarmathi (P.W.1) also appeared before this Court and filed an affidavit, wherein, at paragraph no.6, she has stated as follows:

"6.I submit that in view of the mutual compromise/settlement entered into between us before the Mediation and Conciliation Centre that has culminated into the mutual consent agreement dated 29.09.2015 in the matrimonial proceeding. I am withdrawing all the charges levelled against my spouse and in-laws the appellants herein and do not want to further prosecute the pending criminal proceedings against them. Since we have mutually settled/compromised the disputes before the Alternative Disputes Resolution (Mediation and Conciliation Centre). I have also no objection in compounding the offences against the appellants.

I therefore pray that this Hon'ble Court may be pleased to acquit the appellants in the above Crl. Appeal No.302 of 2008 on the file of this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case thus render justice."

10. Though the parties have arrived at a compromise, yet, this Court cannot quash the entire prosecution in view of the judgment of the Supreme Court in Manohar Singh vs. State of Madhya Pradesh [(2014) 13 SCC 75]. Therefore, this Court proceeded to analyse the evidence on record.

11. Valarmathi (P.W.1), in her evidence, has stated that her betrothal with A1 was celebrated on 09.09.2002 and at that time, it was decided by the elders that her parents should give 40 sovereigns of gold to her and 5 sovereigns of gold to the bridegroom (A1). In her evidence, she has further stated that the parents of A1, viz., A2 and A3 demanded 50 sovereigns of gold, TVS Victor motor cycle, a dressing table, etc. Their marriage was celebrated on 06.02.2003 and on 07.04.2003, the thali changing ceremony was held. Subsequently, Valarmathi conceived and Seemantham was done on 04.12.2003 and thereafter, she went to Poona with A.1, where, it is alleged that A.1 had taken her to Jeevan Jothi Hospital and had given her two tablets in order to cause miscarriage, but, his attempt failed. Ultimately, a girl child was born to her on 10.01.2004.

12. Gnanambal, mother of Valarmathi (P.W.1) was examined as P.W.2, Lakshmanaswamy, maternal uncle of Valarmathi (P.W.1) was examined as P.W.3 and Uthamaraj, paternal uncle of Valarmathi (P.W.1) was examined as P.W.4 and they gave evidence on facts that were known to them personally and also on facts which they heard from P.W.1.

13. It may be necessary to state here that the Trial Court acquitted the appellants/accused only in respect of offence under Section 313 Cr.P.C. and convicted them for offence under Section 498-A IPC and Section 4 of the Dowry Prohibition Act.

14. In the cross-examination of P.W.1, she has very clearly admitted that after marriage, she and A.1 were living very happily in Poona. She has further stated that she had given a complaint in Thiruninravur Police Station and Avadi Police Station, in which, she has not stated anything about the demand of more money and other aspects which were stated in the chief examination. In the cross-examination, she has further stated that even while they were in Poona, her husband permitted her to talk to her parents everyday and he did not prevent her at all from talking with her parents. The contradiction between her evidence before the Court and the statement recorded by the

police were also elicited in the cross-examination. Therefore, on facts, the evidence of P.W.1 does not inspire the confidence of this Court.

15. As regards the evidence of P.Ws.2, 3 and 4, who are the mother, maternal uncle and paternal uncle, respectively, of P.W.1, they have admitted in the cross-examination that jewellery was given on their own volition and not on coercion. They have also stated that P.W.1 went to Poona with A.1 and lived there happily. Hence, their evidence adds nothing much to sustain the conviction.

16. In view of the above discussion, the conviction and sentence passed in S.C. No.169 of 2007 are set aside; the accused are acquitted of all charges and Crl.A. No.302 of 2008 is allowed. Connected Crl.M.P.is closed.

In view of the allowing of Crl.A. No.302 of 2008, Crl.O.P. No.9016 of 2016 stands closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

gms/cad

To

1.The Judicial Magistrate No.I
Poonamallee

2.The Chief Judicial Magistrate
Tiruvallur

3.The Additional District Sessions Judge
Poonamallee (Fast Track Court No.IV)

4.The Inspector of Police
W-29 All Women Police Station
Avadi, Chennai.

5.The Public Prosecutor
High Court, Chennai

+6 ccs to mr.R.Ravindran Advocate sr.35515 and 35516

Common Order in
CrI.OP No.9016 of 2016
and
CrI.A.No.302/2008

aa23/07/2016



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