

Bail Slip

The accused viz Krishnan, aged 29 and Muniyammal aged 42, accused no. 2 & 3 respectively are directed to be released on bail in MP.No.1 of 2009 in CrI.RC.No.421/2009 dated 29/04/2009.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

CrI.R.C.No.421 of 2009

1.Mani

S/o.Krishnan

2.Krishnan

S/o.Annamalai

3.Muniyammal

W/o.Krishnan

4.Amutha

D/o.Arjunan

... Petitioners

Vs.

The Inspector of Police,  
All Women Police Station,  
Ranipet, Vellore District.  
Crime No.9 of 2004.

... Respondent

Criminal Revision Case filed under Section 397 and 401 Cr.P.C. against the judgment of learned Additional District and Sessions Judge (Fast Track Court), Vellore, passed in C.A.No.84 of 2005 on 29.03.2007, confirming the judgment of learned Judicial Magistrate II, Wallajahbad, passed in C.C.No.212 of 2004 on 26.05.2005.

For Petitioners : Mr.S.Gajapathi Krishnan

For Respondent : Mr.V.Arul

Additional Public Prosecutor

O R D E R

This revision arises against judgment of learned Additional District and Sessions Judge (Fast Track Court), Vellore, passed in C.A.No.84 of 2005 on 29.03.2007, confirming the judgment of learned Judicial Magistrate II, Wallajahbad, passed in C.C.No.212 of 2004 on 26.05.2005.

2. The case of the prosecution is that A1 and PW-1 entered into marriage on 12.09.2003. A1 to A3 demanded 3 sovereigns of gold and Rs.50,000/- as dowry from PW-1, beat her and pushed her out of the matrimonial home. A1 married A4 and committed bigamy. Petitioners were arrayed as A1 to A4 in Crime No.9 of 2004 on the file of respondent. Upon completion of investigation, a charge sheet was filed informing commission of offences u/s.498-A, 406, 494, 494 r/w 114 IPC against A1 to A4. The case was tried in C.C.No.212 of 2004 on the file of learned Judicial Magistrate II, Wallajahbad.

3. Before trial Court, prosecution examined 7 witnesses and marked 2 exhibits. None were examined on the side of defence nor were any exhibits marked. On appreciation of materials before it, trial Court, under judgment dated 26.05.2005, convicted petitioners/A1 to A4 for offence u/s.498-A, 406, 494 r/w 114 IPC and sentenced them as under:-

| Accused   | Sections of Law      | Sentence                                              |
|-----------|----------------------|-------------------------------------------------------|
| A1        | 498-A IPC            | 2 years R.I. and fine of Rs.2,000/- i/d 6 months R.I. |
|           | 406 IPC              | 2 years R.I. and fine of Rs.1,000/- i/d 6 months R.I. |
|           | 494 IPC              | 2 years R.I. and fine of Rs.2,000/- i/d 6 months R.I. |
|           | Section 4 of D.P.Act | 2 years R.I. and fine of Rs.2,000/- i/d 6 months R.I. |
| A2 and A3 | 498-A IPC            | 2 years R.I. and fine of Rs.2,000/- i/d 6 months R.I. |
|           | 406 IPC              | 2 years R.I. and fine of Rs.1,000/- i/d 6 months R.I. |
|           | 494 r/w 114 IPC      | 2 years R.I. and fine of Rs.1,000/- i/d 6 months R.I. |
|           | Section 4 of D.P.Act | 2 years R.I. and fine of Rs.2,000/- i/d 6 months R.I. |
| A4        | 494 r/w 114 IPC      | 2 years R.I. and fine of Rs.2,000/- i/d 6 months R.I. |

There against, petitioners/A1 to A4 preferred an appeal in C.A.No.84 of 2005 on the file of learned Additional District and Sessions Judge (Fast Track Court), Vellore, which came to be dismissed under judgment dated 29.03.2007. Hence, this revision.

4. PW-1, wife of A1, has deposed that 15 sovereigns of jewels and Rs.50,000/- in cash and a Hero Honda motorcycle was demanded in dowry and 12 sovereigns in gold and a Hero Honda motorcycle were given and demands were made for the remainder. She has stated that she was pushed out of the matrimonial home by A2 and A3 and her sister-in-law. In cross, she has stated that she had preferred a complaint with All Women Police Station, Ranipet, one week prior to the arrest of accused. She admitted that therein she had only asked that her sreedhana articles be returned and that on three occasions police had caused enquiry of both parties. She admitted that police had informed the accused that no case would be registered against them if the sreedhana articles were returned. She has denied that the accused failed to effect return of jewellery since more than that given to her at the time of marriage was demanded of them. She has admitted that the motorcycle given to A1 was registered in her name. While PW-2, mother of PW-1, has spoken on similar lines regards demand for jewellery, she has exaggerated on PW-1 having been subjected to cruelty owing to the demand for a bike not having been met and of PW-1 informing her so. While PW-1 had admitted to being dropped off at her parental home by A1 but claimed to have returned to the matrimonial home on her own, PW-2 has stated that A1 dropped off PW-1 at her house. She has not deposed to PW-1 having returned to the matrimonial home. Evidence of PW-3, younger brother of PW-1, also is exaggerated. He had deposed that he frequently visited his sister and that she informed him of suffering beatings as also not having been provided food, on demand of Rs.50,000/- and 3 sovereigns of gold in jewellery. He has deposed that A1 caused cigarette burn injuries to his sister. He has admitted to PW-1 having been dropped off at her parental home by A1 but claimed of both PW-1 and he having suffered a beating at his hands. PW-4, maternal uncle of PW-1, though has spoken to dowry demands, has, in cross, admitted to having seen the accused only at the marriage of PW-1 and A1 and thereafter, only in the course of his examination in Court. He has admitted to not knowing of issues between the two families. PW-5 has been examined to speak to A1 entering upon a second marriage with A4. His evidence leaves no doubt that there absolutely is no proof of marriage between A1 and A4. He would only state that he has seen A1 and A4 at a temple on 10.03.2002, he has not spoken to the presence of A2 and A3 and has merely spoken to the presence of 50 members of the public and further, admitted that no marriage receipt issued by the temple or photograph in proof thereof had been provided to the police. Evidence of PW-6, another maternal uncle of PW-1, is merely hearsay in nature. PW-6 has not supported the prosecution case and thus, had been treated hostile. The First Information Report in the present case was registered on 14.06.2004. PW-7, investigation officer, has admitted to earlier complaint having been preferred 5 months

prior thereto. He has stated that in such complaint, it was alleged that PW-1 was beaten and refused food. He has admitted that none of the neighbours had spoken to PW-1 having suffered beatings at the hands of the accused. He has admitted to there being no independent witnesses in proof of charge of dowry demands. He has also admitted to not having gathered any proof of marriage between A1 and A4. In circumstance where the earlier complaint has not been brought on record and upon a complaint of 14.06.2004 a charge sheet has been filed as early as on 30.06.2004, the admission of PW-7 that the complainant party had approached the District Superintendent of Police and it was only owing thereto that a charge sheet came to be filed with haste, merits acceptance. There absolutely is no proof of second marriage between A1 and A4 and the accusation of acts of cruelty are most vague and general. The factum of PW-1 having been beaten and pushed out of the matrimonial home are falsified through the evidence of PWs.2 and 3 who had informed that A1 dropped PW-1 at the parental home. The fact of the motor cycle given to A1 standing in the name of PW-1/his wife is admitted. There is every possibility that it is owing to demands for jewellery in quantity larger than that afforded to PW-1 by her family at the time of her marriage not having been met, that the prosecution has been entered upon. The benefit of doubt is to be afforded to accused.

The Criminal Revision Case is allowed. The judgment of learned Additional District and Sessions Judge (Fast Track Court), Vellore, passed in C.A.No.84 of 2005 on 29.03.2007, confirming the judgment of learned Judicial Magistrate II, Wallajahbad, passed in C.C.No.212 of 2004 on 26.05.2005, is set aside. Petitioners are acquitted of all charges. Fine, if any, paid shall be refunded. Bail bonds, if any, executed shall stand cancelled.

Sd/-  
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

kmi/gm

To

1. The Judicial Magistrate II,  
Wallajahbad.
- 2.The Additional District and Sessions Judge,  
(Fast Track Court),  
Vellore.

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2.-do- through the chief Judicial,  
Magistrate, Vellore.

3.The Inspector of Police,  
All Women Police Station,  
Ranipet, Vellore District

4.The Direct Collector,  
Vellore District

5.The Director General of Police  
Mylapore, Chennai

6.The Principal District and Sessions Judge,  
Vellore.

7.The Superintendent of Police,  
Vellore District

8.The Public Prosecutor  
High Court, Madras.

9.The Section Officer,  
Criminal Section,  
High Court Madras.

+1cc to Mr.S.Gajapathi Krishnan, Advocate, S.R.No.49057

Crl.R.C.No.421 of 2009

PPA (CO)  
GSP (10/08/2018)



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