

BAIL SLIP

The Revision Petitioner herein/Accused Viz S.Ravindrudu S/o.Late Ramachandraiah was released on bail by this court order dated 21/1/16 made in MP.No.560/16 in CrI.RC.No.81/2016 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.06.2017

PRONOUNCED ON : 29.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.81 of 2016

S.Ravindrudu

Petitioner/Accused

Vs

State rep by
Inspector of Police,
I/c.W-9 Police Station,
Villivakkam,
Chennai.
(Crime No.7 of 2009)
Respondent/Complainant

Prayer:-

This Criminal Revision is filed under Section 397 r/w. 401 of Cr.P.C., to set-aside the order of the conviction of the learned XVI City Civil Judge, Chennai in CrI.A.No.196 of 2013 dated 10.12.2015 confirming the judgment of the Chief Metropolitan Magistrate, Egmore in C.C.No.424 of 2010 dated 20.08.2013.

For petitioner : Mr. V.Balu

For respondent : Mr.R.Ravichandran,
Government Advocate (CrI. Side)

O R D E R

First Accused in C.C.No.424 of 2010 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai, is the revision petitioner herein. There are totally 5 accused in this case. The revision petitioner/A1, stood charged for the offence under Section 498A r/w.34, 420 r/w. 34, 406 & 506(ii) IPC, Section 4 and 6 of Dowry Prohibition Act, A2 to A4 stood charged for the offences under Sections 498A r/w.34, 420 r/w.34, and Section 4 of Dowry Prohibition Act, A5 stood charged for the offences under Sections 498A r/w.34, 420 r/w.34 IPC, Section 4 of Dowry Prohibition Act and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. The trial Court, by judgment dated 20.08.2013, convicted A1 for the offences under Sections 498A and 406 IPC and sentenced to undergo rigorous imprisonment for 2 years and to pay a fine of Rs.5000/-, in default, to undergo simple imprisonment for 6 months for the offence under Section 498A IPC, and to undergo rigorous imprisonment for one year and to pay a fine of Rs.5000/-, in default, to undergo simple imprisonment for 6 months for the offence under Section 406 IPC, and acquitted him for the offence under Sections 420 r/w.34, 506 (ii) and Section 4 and 6 of Dowry Prohibition Act and convicted A5 for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for 6 months and acquitted A5 from the offence under Sections 498A, 420 r/w.34 and Section 4 of Dowry Prohibition Act and acquitted the other accused from all other charges. Challenging the above said conviction and sentence, A1 filed an appeal in C.A.No.196 of 2013 and the lower appellate court, confirmed the conviction and sentence and dismissed the appeal, by a judgment dated 10.12.2015. Aggrieved by the same, the petitioner/A1 is before this court with this revision.

2. The case of the prosecution, in brief, is as follows:-

P.W.1 is the defacto complainant and wife of the petitioner. The marriage between the petitioner and P.W.1 took place on 09.06.2006, at Thiruchanur, Thirupathy. At the time of marriage 50 sovereign of gold jewels and 4 kgs of silver utensils and a cash of Rs.7 lakhs and various household utensils were given to the petitioner as dowry. Two months after the marriage, A2 to A5, mother, sisters and brother in law of the petitioner, demanded additional dowry of Rs.10 lakhs and also gold jewels. A5 also misbehaved with P.W.1. During Saturdays and Sundays, the petitioner, left P.W.1 in his sister's house and at that time, A3 and A4 demanded dowry and harassed her.

After 6 months from the marriage, when she conceived A1 has beaten her and warned her that if she give birth to a female child he will send her to her parental house. Thereafter, she came to know that the petitioner already got married and divorced his first wife and without disclosing the same, the second marriage has been conducted. In the year 2007, P.W.1 gave birth to a female child, all the accused did not even cared to see the child. After child birth, the accused did not take P.W.1 to the matrimonial house and she is residing in her parental house. In the above circumstances, she has lodged a complaint(Ex.P.1) before the respondent police.

3. P.W.5 Sub Inspector of Police, attached to the respondent police, on receipt of the complaint, registered a case in Crime No.7 of 2009 for the offences under Sections 498A, 406, 420, 506(ii) r/w.34 IPC and Sections 4 and 6 of Dowry Prohibition Act and Section 4 of Tamil Nadu Prevention of Harassment of Women Act and prepared First Information Report (Ex.P2). Then he recorded the statements of the witnesses and handed over the case for further investigation to the higher officials. P.W.6, Inspector of Police in the respondent police station, on receipt of the First Information Report and the statements recorded by P.W.5, continued the investigation and on completion of investigation, he filed the final report.

4. Based on the above materials, the trial Court framed the charges as detailed in the first paragraph of this judgment against the accused. The accused denied the same. In order to prove the case, prosecution examined 6 witnesses and marked 3 exhibits.

5. Out of the witnesses examined, P.W.1 is the defacto complainant and wife of the revision petitioner. According to her, after the marriage, A2 to A5 demanded Ten Lakhs as a dowry and also gold jewels and A5 also misbehaved with her. When she was staying in the house of A3 and A4 during holidays, they have also demanded dowry and harassed her. When P.W.1 got conceived, the petitioner/A1 kicked her several times and warned her that if she gave birth to a female child, he will send her to her parental house. Subsequently, she came to know that the petitioner already got married and divorced, without disclosing the same, he married P.W.1. In the year 2007, she gave birth a female child and thereafter, they did not come to see the child and keeping the sridhana properties with them.

6. P.W.2 is the father of P.W.1. He has also spoken about the marriage between P.W.1 and A1, and demand of dowry by A3 and A5, and the petitioner also informed P.W.1 over phone that if she want to come to matrimonial home, she has to kill the child, thereafter somebody threatened over telephone to murder P.W.1 and her child. P.W.3 is the friend of P.W.2. He

has spoken about the demand of dowry made by A2 to A4. P.W.4 is also known to P.W.2. According to him, he came to know from P.W.2, that the in-laws of P.W.1 has demanded dowry. P.W.5 is the Sub-Inspector of Police, who registered the complaint. P.W.6 is the Inspector of Police, who conducted investigation and on completion of investigation, he laid charge sheet against the accused.

7. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., they denied the same as false. However, they did not choose to examine any witness. But marked a legal notice issued by them as Ex.D1.

8. Having considered all the above materials, the trial Court convicted A1 and A5 as stated in the first paragraph of this order. Challenging the same, A1 filed an appeal in C.A.No.196 of 2013 before the XV Additional Sessions Judge, City Civil Court, Chennai and the lower-appellate court dismissed the appeal and confirmed the conviction and sentence passed by the trial Court, by judgment dated 10.12.2015. Aggrieved by the same, the petitioner/A1 is before this Court with this revision.

9. I have heard Mr.V.Balu, learned counsel appearing for the petitioner and Mr.R.Ravichandran, learned Government Advocate(Crl. Side) appearing for the respondent.

10. The learned counsel appearing for the petitioner submitted that from the evidence of P.Ws.1 to 4, it could be seen that there are allegations against A2 to A5 only and absolutely there is no allegation for demand of dowry by the petitioner. Now, the court below disbelieving the evidence of all the prosecution witnesses, acquitted the other accused from all the charges, but convicted the petitioner alone for the offences under Sections 498A and 406 IPC. Absolutely there is no evidence against the petitioner/A1 for demand of dowry and harassment. Even for the offence under Section 406 IPC, there is no material available on record to convict the petitioner under Section 406 IPC, as there is no breach of trust by the petitioner, and sought for acquittal.

11. Per contra, the learned Government Advocate (Crl. Side) submits that all the prosecution evidences have consistently stated regarding the dowry demand and the harassment made by the petitioner. Even though the other accused were acquitted, there are sufficient materials available against this petitioner to convict him for the offences under Sections 498 A and 406 IPC.

12. I have considered the rival submissions and perused the materials available on records carefully.

13. In order to prove the charges, the prosecution examined 6 witnesses. Out of which, P.W.1 is the wife of the petitioner and P.W.2 is the father of P.W.1. From their evidence, it could be seen that A2 to A5 only demanded dowry and absolutely there is no material to show that the petitioner also demanded any dowry from P.Ws.1 and 2. Now, the trial Court disbelieved the evidence of P.Ws.1 and 2, and acquitted other accused from all the charges. Even though P.W.1 has stated in her evidence, that, after P.W.1 got conceived, the petitioner used to beat her, but that was not at all corroborated by any other witnesses. Even P.Ws.3 and 4 who are all the friends of P.W.2, have only stated that only the other accused demanded dowry and absolutely there is no corroboration from any other witnesses that the petitioner has beaten P.W.1. P.W.2 in his evidence has stated that the petitioner threatened P.W.1 that if she want to come to the matrimonial house, she has to kill the child, but that evidence was not corroborated by P.W.1, and she did not say that the petitioner warned P.W.1 to kill the child.

14. In the above circumstances, there is absolutely no evidence available to establish that the petitioner has beaten P.W.1 and harassed her. Apart from that there is also no evidence for breach of trust by the petitioner and the petitioner cannot be convicted for that offence also. Without any evidence for harassment or breach of trust, the petitioner cannot be convicted for the offence under Sections 406 and 498A IPC. The Court below without considering the evidence in proper perspective erroneously convicted the petitioner. Hence, the judgment of the courts below is liable to be set aside and the petitioner is entitled for acquittal.

15. In the result, the Criminal Revision Petition is allowed, the conviction and sentence imposed on the petitioner/A1 is set-aside and he is acquitted from all the charges. Bail bond, if any, executed by the petitioner/A1 shall stand cancelled. Fine amount, if any, paid by him is directed to be refunded.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The XV Additional Sessions Judge,
City Civil Court,
Chennai.

2.-do-Thro Principal Sessions Judge,
Chennai

3. The Chief Metropolitan Magistrate,
Egmore, Chennai.

4. The Public Prosecutor,
High court, Madras.

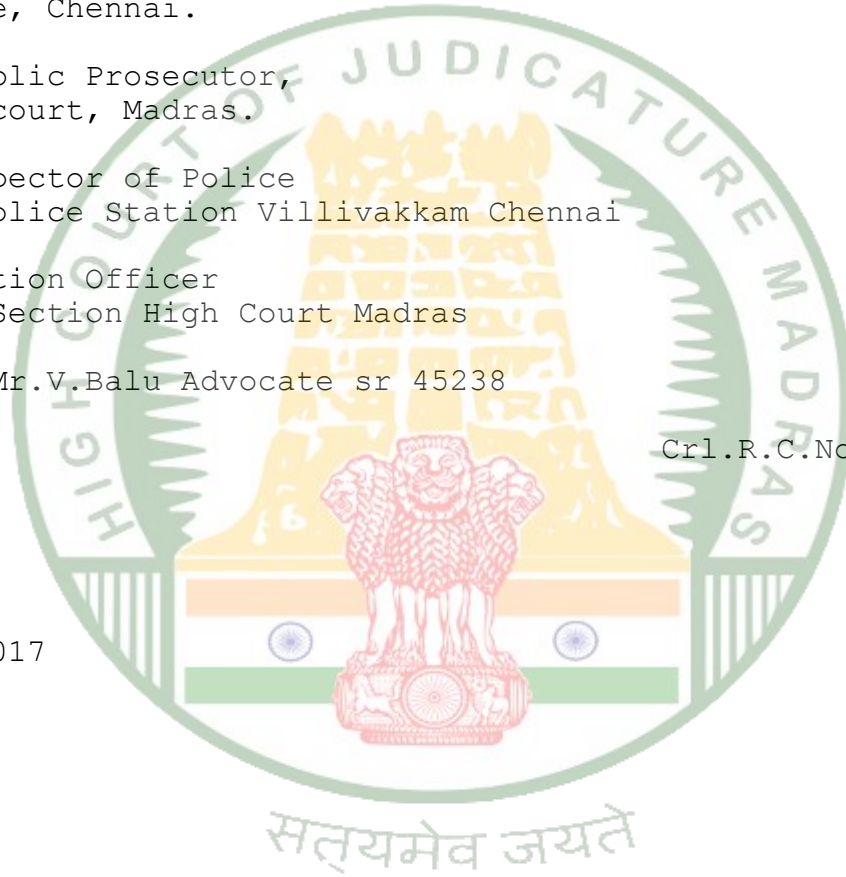
5.The Inspector of Police
I/c W-9 Police Station Villivakkam Chennai

6.The Section Officer
Criminal Section High Court Madras

+1 cc to Mr.V.Balu Advocate sr 45238

Cr1.R.C.No.81 of 2016

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