

Bail Slip

The Petitions 1 to 5/Accused A2 to A5 were directed to be on bail as per the order of this court dated 11/01/2019 made in CrI.MP.No.772/2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2019

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

CrI.R.C. No.10 of 2013 & CrI.M.P. No.695 of 2019

1 Devika @ Deevayee

2 Mani @ Vimala Kumari

3 Rani

4 Velusamy

5 Marimuthu

Petitioners/aCCUSED A2 TO A6

vs.

State represented by
the Inspector of Police
All Women Police Station
Namakkal District
(Cr. No.5 of 2009)

Respondent/Complainant

Criminal Revision Case filed under Sections 397 and 401 Cr.P.C. seeking to set aside the judgment dated 10.12.2012 passed by the Principal Sessions Judge, Namakkal in CrI.A. No.4 of 2012 confirming the judgment of conviction and sentence dated 09.01.2012 passed by the Judicial Magistrate No.I, Namakkal in C.C. No.652 of 2009.

For petitioners Mr. C.D. Johnson

For respondent Mrs. P. Kritika Kamal
Govt. Advocate (CrI. Side)

ORDER

This criminal revision has been preferred seeking to set aside the judgment of conviction and sentence dated 10.12.2012 passed by the Principal Sessions Judge, Namakkal in CrI.A. No.4

of 2012 confirming the judgment of conviction and sentence dated 09.01.2012 passed by the Judicial Magistrate No.I, Namakkal in C.C. No.652 of 2009.

2 Ravikumar (A1) got married to Jayanthi (de facto complainant) sometime in the year 2005 and they have two children through the wedlock. It is alleged that Ravikumar (A1) and his family members started harassing Jayanthi and were demanding a huge amount as dowry. It is further alleged that the accused had physically assaulted Jayanthi.

3 On the complaint lodged by Jayanthi, the police registered a case in Cr. No.5 of 2009 and after completing the investigation, filed final report in C.C. No.652 of 2009 before the Judicial Magistrate No.I, Namakkal against Ravikumar (A1), Devika (A2), Mani (A3), Rani (A4), Velusamy (A5) and Marimuthu (A6). During the pendency of trial, Ravikumar (A1) died on 22.04.2010. The Trial Court convicted A2 to A6 for the charge under Section 498-A IPC and sentenced them as under:

Name of Accused	Sentence
Devika (A2)	Imprisonment till the raising of the Court and fine of Rs.500/-, in default to undergo simple imprisonment for 15 days
Mani (A3)	Six months Simple Imprisonment and fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month
Rani (A4)	Six months Simple Imprisonment and fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month
Velusamy (A5)	Six months Simple Imprisonment and fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month
Marimuthu (A6)	Six months Simple Imprisonment and fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month

4 Challenging the conviction and sentence, A2 to A6 preferred Crl.A. No.4 of 2012 before the Court of Session, which came to be dismissed by the Principal Sessions Judge, Namakkal, vide judgment dated 10.12.2012. Thereagainst, A2 to A6 have

preferred this criminal revision under Sections 397 and 401 Cr.P.C.

5 This criminal revision was dismissed for default by this Court on 09.10.2018, pursuant to which, the police took into custody, Mani (A3), Velusamy (A5) and Marimuthu (A6). Thereafter, the accused moved a restoration application and this Court allowed the same on 07.01.2019. Now, the parties have arrived at a compromise and therefore, they are seeking to quash the prosecution on that ground.

6 It may be pertinent to state here that Ravikumar (A1), husband of Jayanthi (de facto complainant) has died and the present petitioners are relatives of Ravikumar (A1).

7 In B.S. Joshi and Others vs. State of Haryana and another¹ and Gian Singh vs. State of Punjab and another², the Supreme Court has held that even in a case involving non compoundable offence, if the parties arrive at a compromise, the High Court, in exercise of powers under Section 482 Cr.P.C., can quash a prosecution, but, of course, with certain caveats.

8 In this case, the accused have been prosecuted for a matrimonial offence. Jayanthi, the widow of Ravikumar (A1), who is present before this Court, has received a sum of Rs.5 lakhs from the accused. The accused have also undertaken to transfer certain property in favour of Jayanthi and her two daughters. The parties have also filed a compromise memo dated 23.01.2019, wherein, the terms have been set out as under:

A) The 2nd respondent is wife of A1 Ravikumar (died) having 2 female child, namely 1. R. Pratheepa, 2. R. Sasibharathi, for the welfare of the two female children and the widow Jayanthi, the respondents 2 to 4 agreed to pay a sum of Rs.5,00,000/- to them, on behalf of the two female children the de facto complainant/the respondent no.2 received a sum of Rs.5 lakhs from R2 to R5 by cash on 22.01.2019.

B) Both parties agreed to transfer a landed property to an extent of 1.40 acres situate in Sy. No.230/8B in Patta No.262 in Periyakulam Village, Namakkal Registrar, Senthamangalam Sub District and another landed property to an extent of 0.08 cents situate in Sy. No.232/1E, in Periyakulam Village, Senthamangalam Sub District, Namakkal District in favour of 1. Jayanthi, 2. R.Prathiba, 3. R. Sasibharathi to that effect on 09.01.2019 document was executed by one Ganapathi, Subramani, Saravanan

1 (2003) 4 SCC 675

2 (2012) 10 SCC 303

in favour of 1. R. Jayanthi, 2. R. Pratheepa, 3. R. Sasibharathi. The document is now ready for registration but the original title deed in respect of the said properties were in Namakkal District, Additional District Judge Court in A.S. No.31 of 2014, since the matter was compromised, both parties filed Memo before the Namakkal Additional District Judge Court to dismiss the appeal as per compromise between the parties. The ARD filed before the Lower Court, it will take some time to get the original title deed and thereafter, the registration would be held in Sub-Registrar Office.

C The de facto complainant Jayanthi has no objection to allow the above Criminal R.C. No.10 of 2013 since the civil dispute and other related matters compromised among both parties.

It is therefore prayed that this Hon'ble Court may be pleased to accept the compromise memo filed by both parties in Crl.R.C. No.10 of 2013 and allow this Crl.R.C. for the interest of justice and thus render justice."

9 In view of the above, this Court, in exercise of the powers under Section 482 Cr.P.C., quashes the conviction and sentence slapped on the petitioners by the Trial Court vide judgment dated 09.01.2012 in C.C.No.652 of 2009 as confirmed by the appellate Court in Crl. A. No.4 of 2012 vide judgment dated 10.12.2012.

10 The revision petitioners are acquitted and the bail bonds stand discharged. Fine amount paid, if any, shall be refunded.

In the upshot, this criminal revision case stands allowed. Connected Crl.M.P. stands closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

cad

To

1. The Judicial Magistrate No.I,Namakkal.
2. - do - Through'The Chief Judicial Magistrate, Namakkal.
3. The Principal Sessions Judge, Namakkal
4. The Inspector of Police, All Women Police Station
Namakkal District.
5. The Superindent of Prison,
Criminal Section, High Court, Madras.
6. The Public Prosecutor, Madras High Court
Madras 600 104

Copy To

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

+1cc to Mr.C.D.Johnson, Advocate SR.No.5328

Cr1.R.C. No.10 of 2013

AK(CO)

GMV(13/02/2019)