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BAIL SLIP

The Petitioner/Accused namely Ilango S/o.Gunalan was directed to release on bail vide order dated 01.08.2013 made herein Crl.MP.No.1/13 in Crl.RC.NO.904/2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.904 of 2013

Ilango
S/o.Gunalan

... Petitioner/Accused No.1

Vs.

State rep by
Inspector of Police,
All Women Police Station,
Hosur,
Krishnagiri District.
(Crime No.1/2003)

...Respondent/Complainant

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure praying to set aside the judgment dated 26.04.2013 made in Criminal Appeal No.7 of 2008 on the file of the Principal District and Sessions Court, Dharmapuri in partly modifying the judgment dated 18.04.2007 made in C.C.No.175 of 2004 on the file of the Judicial Magistrate Court No.1, Dharmapuri and allow the above criminal revision thereby acquit the petitioner.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.R.Ravichandran
Government Advocate (Crl.Side)

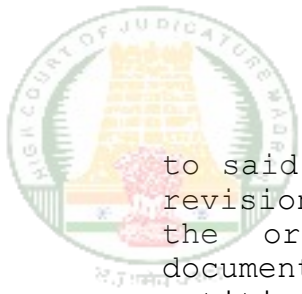
ORDER

This criminal revision has been filed against judgment of conviction passed by the learned Principal District and Sessions Judge, Dharmapuri, in Crl.A.No.7 of 2008 by judgment dated 26.04.2013 by partly modifying the judgment passed by the learned Judicial Magistrate I, Dharmapuri in C.C.No.175 of 2004 dated 18.04.2007.



2. The case of the Prosecution is that the Accused No.1/Revision Petitioner's marriage took place between him and Geetha on 04.02.2001 at Mechery Deepam Thirumanamandapam. Since the Revision Petitioner demanded dowry and harassed, she lodged a complaint before the respondent police on 10.01.2003 and a case was registered in Crime No.1/2003. After investigation, the respondent Police filed a charge sheet against the petitioner. The said case was taken before the Judicial Magistrate Court No.1, Dharmapuri and after trial, the learned Judge came to the conclusion that the petitioner/accused No.1 has committed the offence u/s.498(A) IPC and also u/s.4 of Dowry Prohibition Act, against which the Revision petitioner preferred criminal appeal before the Principal District and Sessions Court, Dharmapuri in Criminal Appeal No.7 of 2008, Crl.R.C.No.1 of 2013 & Crl.R.C.No.2 of 2013. The learned Principal District and Sessions Judge, Dharmapuri, after hearing both sides, acquitted the Petitioner under Section 3 & 4 of Dowry Prohibition Act and confirmed the conviction for the offence under Sections 498(A) IPC and modified the fine amount for an offence under Sections 3 & 4 of D.P.Act. Against the said judgment of conviction the revision petitioner preferred the present Criminal revision before this Court.

3. The learned counsel for the revision petitioner/accused submitted that there is a delay in preparing the complaint and there was no explanation for the inordinate delay in preparing the complaint. Except the family members of the victim, no individual witness supported the case of the prosecution. Even PW5 house owner in which the revision petitioner/defacto complainant was residing not supported the case of the prosecution. There is no demand of dowry but both the Courts below convicted the revision petitioner under Sections 498(A) IPC and under Sections 3 & 4 of D.P.Act, even without any substantive oral and documentary evidence. There is no material to prove the same, since the defacto complainant left the matrimonial house without any reason. Panchayat Mutchalicka is Ex.D.1. Advocate notice dated 04.10.2002 is Ex.D2. Advocate notice dated 11.01.2003 is Ex.D.3. Defacto complainant did not give any reply notice. The revision petitioner/accused No.1 filed HMOP 1 of 2003 before Hosur Sub Court, which is marked as Ex.D4 and the petition was dismissed for default and subsequently restored. The said petition was allowed and the revision petitioner got a decree in his favour but he married another lady. However, the revision petitioner subsequently disputed that she died. According to the revision petitioner there is no harrasement and there is no demand of dowry. As per the evidence of PW2 and PW3, the victim left the matrimonial house due to cruelty committed to her by revision petitioner. But there is no evidence to prove that he caused cruelty and due



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to said cruelty, she consumed sleeping tablets. According to the revision petitioner, both the Courts below has not appreciated the oral evidence of independent witnesses and also the documentary evidence of issuance of notice by the revision petitioner and also petition filed for execution of decree granted by the family Court. Therefore the judgment of both the Courts below is perverse and liable to be set aside.

4. The learned Government Advocate (Criminal side) submitted that the marriage took place between the revision petitioner and the defacto complainant on 04.02.2001. At the time of marriage, parents of the witness Geetha gave jewels weighing 18 sovereigns; in addition they gave house hold utensils including cot, bureau, silver utensils and sarees all together worth Rs.50,000/-. Even after marriage the revision petitioner continuously demanded dowry and also harrassed the defacto complainant. All the accused joined together and troubled victim Geetha demanding money from her parents. Victim Geetha many times meet out the demands of the accused 1 to 7. Even after the birth of a child all the accused joined together meted out cruelty to Geetha and the revision petitioner demanded 2 soverigns for child and one ring for him from her parents house. Every time he used to insult her what type of sridhana her parents have provided and therefore caused mental cruelty. Since she could not bear the insult she consumed sleeping tablets. Therefore the evidence of PW1 victim girl clearly narrated the cruelty caused by the revision petitioner and his parents. Their evidence also corroborated PW1 victim girl's evidence who has clearly spoken about the demand and also Doctor who has been examined, clearly gave report that PW1 victim girl consumed sleeping tablets. Therefore, the prosecution has clearly proved that cruelty caused by the revision petitioner to the victim. Even though there is no proof that they demanded dowry, the prosecution has proved beyond reasonable doubt the offence committed by A1 under Section 498(A) IPC. The learned Government Advocate (Criminal side) submits that there is no reason to interfere with the judgment of the Courts below. Therefore the revision is liable to be dismissed.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for respondent Police and perused the materials available on record.

6. The case of the prosecution is that the victim girl is the wife of the revision petitioner, their marriage took place on 04.02.2001. During the marriage, the parents of the victim provided 18 soverigns, cot, bureau, silver articles and subsequently the revision petitioner continuously demanded money and also insulted the victim girl regarding the sridhana provided by her parents. Even after the birth of a child he



demanded dowry. Since his demand was continuous, at one point of time she could not bear his torture and left the matrimonial house and also consumed sleeping tablet. Therefore she lodged a complaint. On investigation it is revealed that the revision petitioner committed the offence under Section 498(A) and charges also framed and the learned Magistrate found him guilty and convicted him under Section 498 (A) IPC & under Section 4 of Dowry Prohibition Act. Against which an appeal is preferred by the revision petitioner/accused No.1 before the First Appellate Court. The First Appellate Court found that the prosecution has not proved its case beyond reasonable doubt and therefore acquitted the revision petitioner for offence under Sections 3 & 4 of D.P.Act but was found guilty and was convicted under Section 498(A) IPC and sentenced to undergo one year Rigorous Imprisonment and to pay fine of Rs.3,000/- i/d to undergo Simple Imprisonment for one month under Section 498 (A) IPC. The evidence of PW1 victim girl is clearly narrated. The evidence of PW2 & PW3, the parents of the victim have corroborated the evidence of PW1. PW8 Doctor who treated the victim has stated that the victim consumed sleeping tablets. From the evidence of PW1 to PW3, PW7 & PW8 the prosecution has proved its case. Even Ex.D1 Panchayat Mutchalicka, Advocate notice dated 04.10.2002 sent by the revision petitioner and also Ex.D3 Advocate notice dated 11.01.2003, petition filed before the Hosur Sub Court and the other documents shows the dispute between the husband and wife. According to the prosecution, revision petitioner demanded dowry from the victim and caused cruelty. Therefore she could not bear it and consumed sleeping tablets. Whereas the case of the revision petitioner is that he did not make any demand. Only due to the inducement of her parents, without any reason victim Geetha left the matrimonial house. To the notice sent by the revision petitioner in the petition for restitution of conjugal rights, she did not give any reply. Therefore, a petition under Section 9 of the Hindu Marriage Act has been filed. Even then, she has not turned to matrimonial home. Subsequently due to some other reason she died.

7. On a perusal of the entire records and the statement of prosecution witnesses viz., PW1, PW2, PW3, PW7 & PW8, it is apparent that there is a dispute between the revision petitioner and the defacto complainant. According to PW1 to PW3, due to demand of dowry and harrassement, the victim committed suicide. PW1 to PW3 has correctly spoken about the inducement of the accused in this case and the harrassement made by him. PW7 has corroborated that there is a dispute and also there is a harrassement. PW8 has clearly stated that the victim consumed sleeping tablets. Therefore the prosecution has proved its case beyond any doubt and both the Courts below found the revision petitioner guilty.



8. This Court does not find any perversity in the order of the Courts below and there is no merit in the present revision petition and it is liable to be dismissed. However considering the overall circumstances, this Court is of the view that some leniency can be shown in awarding sentence and to that extent, this criminal appeal is liable to be allowed in part.

9. In fine, this criminal revision case is allowed in part. The conviction passed under Section 498(A) IPC by the First Appellate Court in Crl.A.No.7 of 2008 is confirmed. However, the quantum of sentence imposed by the First Appellate Court is modified as follows:-

" The revision petitioner/accused is sentenced to undergo six months imprisonment instead of one year. No modification with regard to fine amount".

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The learned Judicial Magistrate I,
Dharmapuri
2. The learned Principal District and Sessions Judge,
Dharmapuri.
3. The Chief Judicial Magistrate
Dharmapuri
4. The Inspector of Police
All Women Police Station
Hosur, Krishnagiri District
3. 5. The Additional Public Prosecutor,
High Court of Madras.
6. The Section Officer
Criminal Section
High Court Madras-104



+1 cc to Mr.C.Prabakaran Advocate sr68727

Cr1.R.C.No.904 of 2013

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