

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Criminal Appeal No.735 of 2007

Loganayaki @ Jaya

... Complainant/Appellant

Vs.

1.Murugaswamy @ Raju
2.Sarsu @ Saraswathy
3.Pongiya
4.Rakiappa Nadar
5.Murthi @ Thambi
6.Nagammal

... Accused 1 to 4, 6 & 14/Respondents

Prayer: Criminal Appeal is filed under Section 378 of the Criminal Procedure Code, praying against the Judgment of acquittal dated 08.05.2007 in C.C.No.107 of 1997 on the file of the Judicial Magistrate No.5, Coimbatore.

For Appellant : No appearance
For R1 to R6 : Mr.N.Manokaran

JUDGMENT

The appellant is the complainant in C.C.No.107 of 1997 on the file of the Judicial Magistrate No.5, Coimbatore.

2. As many as 18 persons were shown as accused in the said case which was filed for offences under Sections 494 and 498(A) of IPC. Most of the accused were not available to be secured and therefore the case was split up as against A1, 2, 3, 4, 6 & 14. The complainant examined herself as P.W.1, her friend as P.W.2, and two close relatives as P.W.3 and P.W.4 and three documents were marked. The Court below by the impugned judgment dated 08.05.2007, acquitted the accused. Questioning the same, this appeal came to be filed.

3. The appeal was filed through Counsel and notice was ordered. On the side of the acquitted respondents, Counsel had entered appearance. While so, on 10.10.2017, the Counsel for the appellant filed a memo withdrawing his appearance. Therefore, notice was directed to be issued to the appellant but till date, the appellant has not chosen to enter appearance either in person or through Counsel. It is true that the Registry was asked to take steps in the matter. Such a direction was given on more than one occasion. But then, this Court is of the view that a duty is cast on the appellant also.

4. The Hon'ble Supreme Court, has observed that it is the duty of the litigant to follow up his case with his Advocate atleast once in a year. Since it was the appellant, who challenged the Judgment of acquittal, she ought to be vigilant. The events date back to the year 1997. More than 21 years have elapsed. This is an appeal against a Judgment of acquittal. We cannot afford to keep such appeals pending indefinitely. Therefore, this Court proposes to go through the record and passed an order on merits.

5. The charges against the accused are under Section 498(A) and 494 of IPC. Of course, the charge under Section 498 (A) of IPC, will not lie against the second accused Sarasu. It is seen that the complainant had chosen to implicate as many as 18 persons. This itself shows the vindictive nature of the complainant and her anxiety to rope in all the relatives of the husband. The allegation is that there was commission of cruelty of demanding dowry. In the very nature of things, the close relatives of the complainant such as her brothers would depose in support of the prosecution. But, in this case, even the immediate members of the complainant's family have not entered the witness box to speak against the accused. That is why, the Court below rightly found that the charge under Section 498(A) of IPC was not made out. Likewise, the charge of bigamy under Section 494 of IPC, was also rightly held to be not made out.

6. According to the complainant, the 2nd marriage took place on 27.03.1997 in a temple. Ex.P1 is the alleged marriage invitation card, but then, if a marriage was conducted in a temple, there would be corresponding entries made in the temple register. No such document was marked. The temple authorities were not examined. Since, no credible evidence to prove the conduct of the bigamous marriage between A1 and A2 was forthcoming, the Court below acquitted the accused for the offence under Section 494 of IPC also.

7.This is an appeal against a judgment of acquittal. Unless the Judgment of acquittal is shown to be perverse or otherwise grossly irregular, the question of interference by the appellate Court will not arise. There are no merits in this appeal. This appeal stands dismissed. No costs.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

msvm

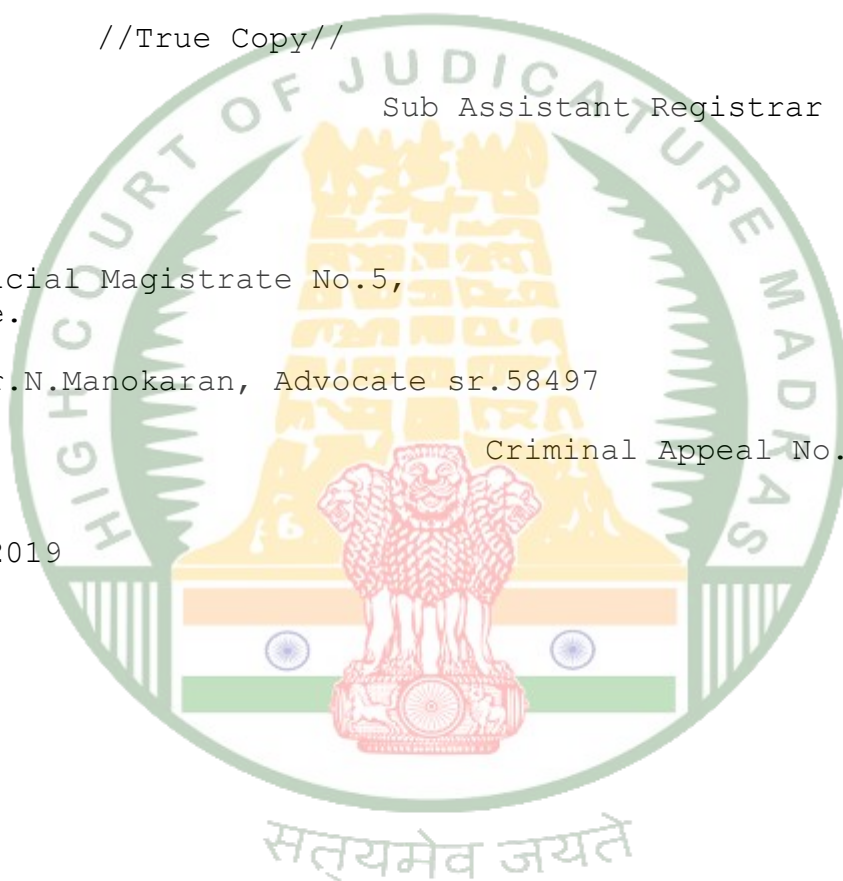
To:

1.The Judicial Magistrate No.5,
Coimbatore.

+1cc to Mr.N.Manokaran, Advocate sr.58497

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