

Bail Slip

The Revision Petitioner/accused Subramani S/O Puttappa (in SC.No.7 of 2004 dated 14/12/2009 on the file of Assistant Sessions Judge, Hosur) was directed to be released on bail as per order of this Court dated:15/02/2013 made in MP.No.1/2013 & 2/2013 in CRL.R.C.No.24 of 2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2018

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.24 of 2013

Subramani

... Petitioner/Accused

Vs

State represented by
The Inspector of Police,
Sipcot Police Station,
Hosur, Krishnagiri District.
(Cr.No.243 of 2002)

...Respondent/Complainant

PRAYER: Criminal Revision filed under Section 397 and 401 of Criminal Procedure Code, against the judgment of conviction passed by the learned District Sessions Judge, Krishnagiri District in C.A.No.1 of 2010 dated 17.08.2012 confirming the conviction and sentence passed by the learned Assistant Sessions Judge, Hosur in S.C.No.7 of 2004 dated 14.12.2009 convicting the appellant to undergo 3 years rigorous imprisonment for the offence under Section 498(A) IPC and to pay a fine of Rs.500/- in default to undergo 6 months simple imprisonment.

For Petitioner : Mr.L.Baskaran

For Respondent : Mr.Hari Hara Arun Somasankar. G
Government Advocate

O R D E R

The petitioner herein is the sole accused in C.A.No.1 of 2010 on the file of District Sessions Judge, Krishnagiri District. In the said case, he was convicted for the offence under Section 498 (A) IPC and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.500/- in default

to undergo six months simple imprisonment.

2.The case of the petitioner is as follows:-

The petitioner/accused is a husband of Meenakshi, out of the wedlock male child was born. P.W.1 is the father of the deceased Meenakshi. There is a matrimonial dispute between the petitioner/accused and his wife. Due to which she attempted suicide along with her son. Therefore, the case was registered and after investigating the case, prosecution laid charge sheet under Section 498(A) and 304(B) IPC. The trial Court, after trial acquitted the accused under Section 304B and convicted and sentenced him for the offence under Section 498A. The trial Court found that there is no evidence to prove that there was dowry demand on the date of marriage and acquitted the petitioner for the offence under Section 304B. Further, from the evidence of P.W.1 to P.W.4 there are materials available to show that the petitioner has committed the offence under Section 498A.

3.Feeeling aggrieved against the judgment of conviction, the petitioner preferred an appeal before the learned District and Sessions Judge, Krishnagiri. The appellate Court after re-appreciating the entire oral and documentary evidence, confirmed the judgment of conviction recorded by the trial Court. As against the order of the learned District Sessions Judge, Krishnagiri, the petitioner is before this Court by way of present criminal revision.

4.Heard both sides and perused the materials available on record.

5.The main contention of the learned counsel for the petitioner is once the trial Court found that there is no material for the offence under Section 304B and came to the conclusion that the petitioner demanded dowry. Due to demand of dowry, the petitioner's wife and his son committed suicide. The trial Court and the appellate Court ought to have acquitted the petitioner for the offence under Section 498A and both the Courts below had committed an error. However the learned counsel prays this Court to set aside the judgments of conviction of both the Courts below and for acquittal.

6.The learned Government Advocate (Crl.side) appearing for the respondent would submit that though ingredient under Section 304B shows that death of a women is caused under normal circumstances within a period of seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband in connection with demand for dowry. During the marriage and immediately after the marriage, if she died suspiciously the Court can presume that

the cause of death was due to demand of dowry can be punished under Section 304B. Whereas, in 498A, it is clearly stated that any wilful conduct which is of such a nature as is likely to admire the woman to commit suicide, where such harassment is with a view to coercing her or any person related to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person.

7. Though, the Court found that there is no demand of dowry and acquitted under Section 304B, whereas, the materials placed by the prosecution there is a harassment on the side of the petitioner and the offence falls under Section 498A.

8. On a careful reading of both the sections, it is submitted by the learned counsel for the petitioner that it cannot be accepted that once the petitioner is acquitted under Section 304B, he cannot be convicted under Section 498A. The scope of Section 498A is entirely different from scope of Section 304B. Therefore, under these circumstances, there is no perversity.

9. The revision Court cannot re-appreciate the entire evidence. Since the appellate Court had appreciated the entire evidence and given a cogent reason from the evidence. Even though the prosecution has not proved demand of dowry but at the same time proved harassment of the petitioner to the victim. Further prosecution has not filed any appeal against the accused for the offence under Section 304B IPC. The revision Court while dealing with the revision has to see whether any perversity in the finding recorded by the Courts below.

10. On a perusal of the entire records and submissions made by the counsel, this Court does not find any perversity in the judgment of conviction recorded by both the Courts below and this Court finds there is no merit in the revision.

11. In the result, the Criminal Revision stands dismissed.

Sd/-

Assistant Registrar (CS IX)

//True Copy//

Sub Assistant Registrar

AT

To

1. The District Sessions Judge,
Krishnagiri District.
- 2.-do-Throuh-The Principal District Judge,
Krishnagiri.
- 3.The Assistant Judge, Hosur.
4. The The Inspector of Police,
Sipcot Police Station,
Hosur, Krishnagiri Dirstrect.
- 5.The Public Prosecutor,
High Court, Madras.

Crl.R.C.No.24 of 2013

SSD(CO)
GSP(30/11/2018)



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