

**BAIL SLIP in CRL.RC.141/2018**

The Petitioner/Accused viz., namely S.Rajamanickam, S/o.Subramani was released on bail as per order of this Court dated 20.03.2018 on made in CrI.M.P.(MD)No.1930 of 2018. in CrI.RC.(MD)No.141/2018.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 18.07.2018

DELIVERED ON : 14.08.2018

CORAM :

THE HONOURABLE MRS. JUSTICE R. THARANICrI. R.C. (MD) No.141 of 2018

S.Rajamanickam

... Petitioner/Appellant

vs.

The State rep. By,
Sub-Inspector of Police,
All Women Police Station,
Thiruvadanai, Ramanathapuram,
(Crime No.1 of 2005)

.. Respondent/ Respondent

Prayer:- Criminal Revision Petition filed under Sections 397 r/w. 401 of the Code of Criminal Procedure, 1973, to call for the records relating to the Judgment passed in C.A.No.17 of 2008 on the file of the learned Principal District and Sessions Judge, Ramanathapuram dated 15.11.2017 modified in C.C.No.152 of 2005 on the file of the District Munsif and Judicial Magistrate, Thiruvadanai dated 13.03.2008 and set aside the same.

For Petitioner : Mr.G.Thiruvarutselvan

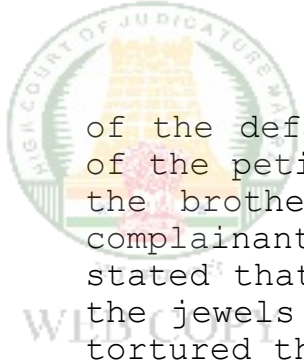
For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate (CrI.Side)**ORDER**

Heard Mr.G.Thiruvarutselvan, learned counsel appearing for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate (CrI.Side) appearing for the respondent.

2.This petition is filed to set aside the Judgment passed in C.A.No.17 of 2008 on the file of the learned Principal District and Sessions Judge, Ramanathapuram dated 15.11.2017 modifying the order in C.C.No.152 of 2005 on the file of the District Munsif and Judicial Magistrate, Thiruvadanai dated 13.03.2008.

<https://hcservices.ecourts.gov.in/hcservices/>

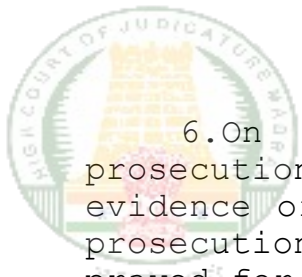
3.The case of prosecution is that the petitioner is the husband



of the defacto complainant and the co-accused 2 and 3 were parents of the petitioner. A4 to A6 were sisters of the petitioner and A7 is the brother of the petitioner. The marriage between the defacto complainant and petitioner was solemnized on 15.05.2002. It is stated that within a period of one month from the date of marriage, the jewels of the complainant were pledged by the petitioner and he tortured the defacto complainant and demanded a sum of Rs.5,00,000/- (Rupees Five Lakhs only) as dowry. The case was registered against the petitioner and others under Sections 498(A) and 406 of IPC and Section 4 of Dowry Prohibition Act. After the trial, the learned District Munsif cum Judicial Magistrate, Thiruvadanai convicted the petitioner and sentenced him to undergo two years Rigorous Imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo three months Simple Imprisonment under Section 4 of Dowry Prohibition Act and the learned Judicial Magistrate has sentenced him to undergo one year Rigorous Imprisonment and to pay a fine of Rs.3,000/- (Rupees Three Thousand only) in default to undergo three months Simple Imprisonment for the offence under Section 406 of IPC and the learned Judicial Magistrate has sentenced him to undergo two years Rigorous Imprisonment and to pay a compensation of Rs.5,000/- (Rupees Five Thousand only) to his wife.

4. Against the order, the petitioner has filed an appeal in C.A.No.17 of 2008 before the Principal and Sessions Judge, Ramanathapuram. The first appellate Court modified the sentence and ordered the petitioner to undergo 6 months Rigorous Imprisonment for the offence under Section 498(A) of IPC and sentenced him to undergo six months Rigorous Imprisonment and to pay a fine of Rs.6,000/- (Rupees Six Thousand only) in default to undergo three months Simple Imprisonment for the offence under Section 4 of Dowry Prohibition Act and sentenced him to undergo six months Rigorous Imprisonment and to pay a fine of Rs.4,000/- (Rupees Four Thousand only) in default to undergo three months Simple Imprisonment and has awarded a compensation of Rs.6,000/- (Rupees Six Thousand only) to P.W.1 and thereby modified the sentence alone.

5. On the side of the petitioner, it is stated that the petitioner went abroad and the second accused was acquitted by this Court in CrI. R.C.(MD)No.745 of 2007 dated 11.07.2017 that there was earlier complaint in which the allegation is that the petitioner has demanded a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) as dowry and thereafter, and in the complaint which is filed within a period of two months, it is stated that the demand is only Rs.5,00,000/- (Rupees Five Lakhs only). Two complaints are filed by the complainant. The first complaint was ended in compromise and after three months, the second complaint was registered. This Court acquitted the accused under Section 4 of the Dowry Prohibition Act. On the side of the petitioner, it is stated that he was not in India and he was in abroad and prayed to set aside the Judgment of the lower Court.



6. On the side of the prosecution, it is stated that the prosecution examined P.Ws.1 to 7 and marked two documents. The evidence of P.W.1 is corroborated by the evidence of P.W.2 and the prosecution has proved the case beyond the reasonable doubts and prayed for the dismissal of the revision case.

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7. On the side of the prosecution, it is stated that P.W.1 has given evidence that the accused demanded Rs.5,00,000/- (Rupees Five Lakhs only) as dowry and assaulted her. It is further stated that the petitioner has pledged 40 sovereigns of gold jewels of the defacto complainant without her knowledge. The learned Judicial Magistrate found the accused guilty under Sections 498(A) and 406 of IPC. The evidence of P.W.1 corroborated with Ex.P1. It is stated that the petitioner has pledged 40 sovereigns of gold jewels that belonged to the defacto complainant.

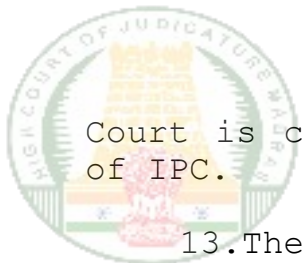
8. The petitioner is questioning the statement of the complainant stating that the complainant has lodged two complaints in one of which it is stating that the petitioner was claiming Rs.10,00,000/- (Rupees Ten Lakhs only) as dowry and in this complaint, it was stated that the petitioner was asking a dowry of Rs.5,00,000/- (Rupees Five Lakhs only). Except this point no other point is raised by the petitioner for the revision case.

9. The petitioner has examined one witness and marked a document regarding the compromise between the petitioner and the defacto complainant. Ex.D.1 was the compromise deed. The defence side witness D.W.1 has stated that the defacto complainant claimed partition and that is the reasons for the problem between the defacto complainant and the petitioner. D.W.1 is the father-in-law of the brother of the petitioner. He was residing in another village and he has no knowledge about the problem between the petitioner and the defacto complainant.

10. Earlier the defacto complainant lodged a case in Ex.D1 against the petitioner for a dowry demand of Rs.10,00,000/- (Rupees Ten Lakhs only) and that case was compromised. Subsequently, this case in Ex.P1 was lodged by the defacto complainant stating that the petitioner demanded Rs.5,00,000/- (Rupees Five Lakhs only) as dowry. The petitioner has not produced any document to show that he was residing abroad at the relevant period.

11. Though there is variation in the quantum of dowry, the demand by the petitioner is clearly stated in Ex.D1 and Ex.P1. The main matter to be decided in this case is whether there is a dowry demand and the variation in the quantum is negligible. Hence, the lower Court is correct in finding petitioner guilty under Section 4 of Dowry Prohibition Act.

12. In Ex.D1, the petitioner has given an undertaking not to harass the defacto complainant. This admission of P.W.1 reveals that there was harassment on the part of the respondent. Hence, the lower



Court is correct in convicting the petitioner under Section 498(A) of IPC.

13.The defacto complainant has deposed that the petitioner has pledged 40 sovereigns of gold jewels that belonged to her. The petitioner has not raised any objections thorough out the case regarding the pledging of the jewels. Hence, the lower Court is correct in deciding the petitioner guilty under Section 406 of IPC.

14.Hence, this Court deems it fit to modify the sentence alone. The petitioner is sentenced to undergo one month Rigorous Imprisonment and to pay a fine of Rs.6,000/- (Rupees Six Thousand only) in default to undergo one month simple imprisonment for the offence under Section 4 of the Dowry Prohibition Act and is sentenced to undergo one month Rigorous Imprisonment and to pay a fine of Rs.6,000/- (Rupees Six Thousand only) in default to undergo one month simple imprisonment for the offence under Section 498(A) of IPC and is sentenced to undergo one month Rigorous Imprisonment and to pay a fine of Rs.3,04,000/- (Rupees Three Lakhs and Four Thousand only) in default to undergo three months simple imprisonment for the offence under Section 406 of IPC and a compensation of Rs.3,00,000/- (Rupees Three Lakhs only) to the defacto complainant is to be given from out of the fine amount. The imprisonment period is to run currently. The period already undergone by the petitioner is to be deducted from the period of imprisonment under Section 468 of IPC.

14.With the above modification, this Criminal Revision Case is disposed of.

Sd/-

Assistant Registrar (WRITS)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1.The Principal District and Sessions Judge,
Ramanathapuram.

2.The District Munsif and Judicial Magistrate,
Thiruvadanai.

3.The Chief Judicial Magistrate,
Ramanathapuram.

4. The Sub-Inspector of Police,
All Women Police Station,
Thiruvadanai, Ramanathapuram.



5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.G.Thiruvaruiselvan Advocate in Sr.No.78721.

MRN

DS KAK SAR-2 ;03.09.2018; 5P/7C

Cr1. R.C. (MD) No.141 of 2018
14.08.2018