



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C(MD)No.146 of 2018

V.Paulpandi : Petitioner/Appellant/Complainant

Vs.

1.The State Rep. by its
The Inspector of Police,
All Women Police Station,
Tiruchendur.
(Crime No.13 of 2012)

: 1st Respondent/Respondent/
Complainant

2.Ganesan

3.Kamalambal

4.Kanthasamy

5.Sudalaimani

6.Vijayalakshmi

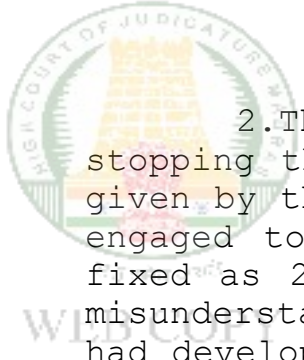
7.Mariya Anthony : Respondents No.2 to 7/Respondents No.2 to 7/
Accused No.1 to 6

PRAYER: Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records pertaining to the Judgment of acquittal passed by the learned I-Additional District Sessions Court, Thoothukudi in C.A.No.20 of 2017 dated 09.10.2017 by confirming the learned Judicial Magistrate, Tiruchendur in C.C.No.28 of 2013 dated 06.02.2017 by acquitting the respondents No.2 to 7/Accused No.1 to 6 for the offence under Section 4 of Dowry Prohibition Act and Section 4 of Tamil Nadu Protection Women Harassment Act, 2002 and set aside the same.

For Petitioner : Mr.M.Jegadeesh Pandian
For R-1 : Mr.A.Robinson,
Government Advocate(Crl.Side).
For R-2 to R-7 : Mr.A.Thiruvadi Kumar

ORDER

Heard the learned counsel for the petitioner, the learned
Government Advocate(Crl.Side) for the first respondent and the
learned counsel for the respondents 2 to 7.



2.This is a case of dowry harassment, which has lead to stopping the marriage after the engagement. As per the complaint given by the revision petitioner herein, his daughter Karpagam was engaged to one Kanthasamy on 15.07.2012. The marriage date was fixed as 28.10.2012. Between the betrothal and date of marriage, misunderstanding between the parents of the bride and bridegroom had developed. It is alleged that at the time of betrothal demand of 60 sovereigns of gold jewels and cash of Rs.1,20,000/- for the marriage expenses was made from the bridegroom side. The parents of the bride agreed to give 40 sovereigns only.

3.It is also alleged in the complaint that a sum of Rs.20,000/- was received as advance by the respondents. The marriage hall was booked and bride family started all preparation for the marriage. Consistent and persistent demand of extra dowry then and there has lead to stoppage of the marriage. Consequently, a private complaint has been filed and the same has been taken on file by the learned Judicial Magistrate, Tiruchendur in C.C.No.28 of 2013. After examining the witnesses, particularly, P.W.1-the girl whose marriage was fixed and later broke down and P.W.2-father of the bride also the revision petitioner herein, the trial Court has pointed out the inconsistency in the case and acquitted the respondents.

4.Aggrieved by that, the revision petitioner herein has preferred the appeal before the I-Additional District and Sessions Court, Thoothukudi. Appeal was taken on file as C.A.No.20 of 2017. On re-appreciation of facts, the appellate Court has confirmed the findings of the trial Court. Against the concurrent findings of the acquittal, the present criminal revision case has been filed.

5.The contention of the learned counsel appearing for the revision petitioner is that when the evidence of prosecution is clear and cogent, besides the factum of abrupt stoppage of marriage the Courts below ought to have convicted the accused. The very fact of withdrawing the marriage proposal ought to have waived the mind of the Courts below that an imminent harassment of dowry demand has lead to break-down of the marriage proposal. Contrarily, both the Courts below magnified the minor contradiction for the purpose acquitting the respondents.

6.Whereas, the learned counsel for the respondents 2 to 7 would submit that both the Courts below, on facts, have held that the prosecution has failed to prove the case beyond reasonable doubt. Cogent and clear reasons have been given by the Courts below for acquittal. Even testimony of the prosecution witnesses P.W.1 to 7 who are close relatives of the revision petitioner, has not been corroborated with each other. More particularly, the alliance arranged and settled through broker by name Chelladurai, but he was not been examined by the prosecution. He is the most



competent and neutral witness, who would have spoken about the cause for the stoppage of the marriage. Since the Courts below on facts found that there is no truth in the allegation made in the private complaint as alleged by the revision petitioner herein, had rightly dismissed the complaint, which requires no interference.

7. On considering the rival submissions and on perusal of the impugned order passed by the Courts below, this Court find that the very substratum of the complaint regarding the demand of dowry has not been properly made out through the prosecution witnesses. Undoubtedly, the marriage which was fixed between P.W.1 and A3 did not fructify. Whether that was due to dowry demand alone, has not been properly established through the prosecution witnesses.

8. In the said circumstances, when two views are possible, one view in favour of the accused been accepted by the Courts below and acquitted the accused. In the revision case, alternate view need not be applied to reverse the order of acquittal. The double benefit ensured to the accused persons cannot be upset just because there is also an alternate view. Therefore to give a quietus to the dispute and upholding the view of the fact finding Courts below. This Criminal Revision Case is liable to be dismissed.

9. In the result, this Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(AD-I)

/TRUE COPY/

Sub Assistant Registrar(CS-)

To

1. The I-Additional District and Sessions Court,
Thoothukudi.
2. The Judicial Magistrate, Tiruchendur.
3. The Inspector of Police,
All Women Police Station,
Tiruchendur.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



5.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

WEB COPY

6.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1. C.C. to M/S.A.Thiruvadi Kumar, Advocate SR.No. 87280

+1. C.C. to M/S.M.Jegadeesh Pandian, Advocate SR.No. 87228

ORDER MADE IN
Crl.R.C (MD) No.146 of 2018
27.09.2018

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