

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.A.No.500 of 2010

State represented by:

The Inspector of Police,

Sathyamangalam All Women Police Station,

Erode District.

(Crime No.3/2007)

... Appellant/complainant

/Vs/

1. Shanmugasundaram

2. Perumal

3. Dhanalakshmi

4. Sujatha

... Respondents/accused1, 3 to 5

PRAYER: Criminal Appeal filed under section 378 of the Criminal Procedure Code, to allow this Criminal Appeal and set aside the acquittal judgment dated 02.06.2009 in C.C.No.194 of 2007 on the file of the learned Judicial Magistrate, Sathyamangalam and convict the respondents/accused (A-1, A-3 to A-5) as charged.

For Appellant : Mr.K.Prabakar
Additional Public Prosecutor

For Respondents : M/s.S.Kamadevan

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J U D G M E N T

This criminal appeal has been filed by the appellant/complainant against the order of acquittal dated 02.06.2009 in C.C.No.194 of 2007 on the private complaint filed under Section 138 of the Negotiable Instruments Act.

2.The facts leading to this appeal in brief are as follows:

The case of the prosecution is that on 20.02.2007, one Sasikala-defacto complainant, lodged a complaint against the accused 1 to 5 before the appellant police stating that after her marriage, she was subjected to cruelty at the hands of A1 - husband of the complainant; A2-concubine of A1; A3 to A5-in-laws of the complainant, by demanding dowry, viz., car and a cash of Rs.3 lakhs and since she could not get the same, she was driven out of the matrimonial home. Thereafter, the panchayat convened

for an amicable settlement, which failed to yield any fruitful result and that since A1 and A2 were having illicit relationship, the complainant again left her matrimonial home and all of a sudden, A1 came to her home and threatened and forced her to sign in white papers for giving consent for divorce to him and threatened her with dire consequences if she did not sign the papers. Hence, fearing for her life, she made a complaint before the All Women Police Station, Sathiyamangalam in Crime No.3/2007 for the offence under Section 498(A) IPC & Section 4 of D.P Act and 506(ii) IPC and the Inspector of Police took up the investigation and laid charge sheet against the accused persons and filed the same before the learned Judicial Magistrate, Sathiyamangalam.

3. The case was taken on file in C.C.No.194/2007, by the learned Judicial Magistrate, Sathiyamangalam, and necessary charges were framed. The accused had denied the allegation and sought for trial. In order to prove the allegation against the accused, and on the side of the complainant, Sasikala, examined herself as P.W.1 apart from examining P.W.2 to P.W.11 and marked Ex.P.1 and Ex.P.2 and on the side of the defence, D.W.1 was examined; and Exs.D.1 to 4 were marked.

4.The court below, after hearing the arguments advanced on either side and also looking into the materials available on record, found the accused not guilty and acquitted them, which is challenged in this Criminal Appeal.

5.This court heard the submissions of the learned counsel on either side.

6.The learned Additional Public Prosecutor appearing for the respondent/State would submit that the case was registered during the year 2007 and the trial was conducted by the Judicial Magistrate, Sathiyamangalam and Judgement was passed on 02.06.2009. He would further submit that after the Amendment to Section 378 of Cr.P.C., in view of Cr.P.C the Amendment Act 2005 which came in to effect from 21.06.2006, the appeal by the State against the order of acquittal is maintainable before the District and Sessions Judge and would submit that the appeal can be referred to the concerned Sessions Judge for hearing in compliance of the decision reported in 2016(4) CTC 119.

7.The learned Additional Public Prosecutor would further submit that leave has been granted and that in the event of appeal being remitted back to the District Court, there may not be any necessity for obtaining leave afresh and that the District Judge shall take up the appeal and dispose of the same on merits.

8. In view of the Judgement rendered by the Full Bench of this Court in the case of S.Ganapathy Vs. N.Senthilvel reported in 2016(4) CTC 119, this Court is of the opinion that the appeal can be referred to the concerned Sessions Court for hearing. In view of the same, the criminal appeal is disposed of on the following terms.

(i) the Criminal Appeal along with connected papers and records shall be transferred to the file of the Principal District and Sessions Court, Erode District.

(ii) On receipt of the appeal, the learned Sessions Judge shall re-number the Criminal Appeal and take up and dispose of the appeal or make over the same to the Additional Sessions Court for disposal in accordance with law.

(iii) Since this Criminal Appeal is relating to the year 2010, the learned Sessions Judge/District Judge shall accord priority to the same and dispose of the same as expeditiously as possible, after issuing notice to both parties.

(iv) The Registry is directed to send the case bundles in Criminal Appeal No.500 of 2010 with all connected records of the Trial Court as well as the typed set of papers filed before this Court to the Principal District Court, Erode District, forthwith.

9. With the above direction the Criminal Appeal No.500 of 2010 shall stand disposed of.

Sd/-

Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate, Sathyamangalam, Erode.
Through The Chief Judicial Magistrate, Erode

2. The Public Prosecutor, High Court, Madras.

3. The Inspector of Police,
Sathyamangalam All Women Police Station, Erode.

4. The Principal District and Sessions Judge,
Erode District, Erode.

5. The Section Officer, Criminal Section, High Court, Madras.

Crl.A.No.500 of 2010

MR(CO)
SSM(19/06/2019).