

BAIL SLIP

The Appellant/Petitioner/Accused namely Sakthivel S/o.Ranga Chettiyar was directed to be released on bail as per the order of this Court dated 11/10/2012 made in MP.No.1 of 2012 in CrI.R.c.No.1281 of 2012 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.R.C.No.1281 of 2012

Sakthivel ...Petitioner/Appellant/Accused No.I

Vs.

State represented by,
The Inspector of Police,
All Women Police Station,
Pollachi.

(Crime No.23 of 2007)

...Respondent/Respondent/Complainant

The Criminal Revision is filed under Sections 397 and 401 of Code of Criminal Procedure to set aside the judgment dated 13.07.2012 passed by the learned III Additional District and Sessions Judge, Coimbatore, in C.A.No.27 of 2012, confirming the judgment dated 05.01.2012 passed by the learned Judicial Magistrate No.I, Pollachi in C.C.No.409 of 2007 convicting the petitioner for the alleged offence under section 498(A) of the Indian Penal Code thereby sentencing the Petitioner to undergo one year simple imprisonment and fine of a sum of Rs.2000/- in default to undergo two months simple imprisonment.

For Petitioner : Mr.L.Mouli

For Respondent : Mr.T.Shanmugarajeswaran
Government Advocate (CrI.Side)

ORDER

This criminal revision case has been filed against the concurrent judgment of conviction made by both the Courts below.

2 The respondent police registered a case against the petitioner and eight others for the offence punishable under Sections 498(A), 506(1) r/w Section 4 of Dowry Prohibition Act, stating that after investigation laid a charge sheet before the learned Judicial Magistrate No.I, Pollachi, which was taken on file in C.C.No.409 of 2007. The learned Magistrate, after trial, found the petitioner guilty for the offence punishable under Section 498(A) and by judgment dated 05.01.2012 convicted and sentenced him to undergo rigorous imprisonment for a period of one year with fine of Rs.2,000/-, in default, to undergo simple imprisonment for a further period of one month and acquitted from the offence under Section 506(1) and Section 4 of Dowry Prohibition Act and also acquitted all the other accused. Challenging the judgment of conviction recorded by the trial Court, the petitioner has filed an appeal, which was taken on file in C.A.No.27 of 2012 by the learned III Additional District and Sessions Judge, Coimbatore. The learned Sessions Judge, after hearing both the counsel and after perusing the materials, by judgement dated 13.07.2012 dismissed the appeal by confirming the judgment of conviction passed by the trial Court. Aggrieved against the concurrent judgment of conviction passed against the petitioner, present criminal revision case has been filed.

3 According to learned counsel appearing for the petitioner the defacto complainant has raised allegations against the petitioner, after 15 years of marriage and as per prosecution the occurrence taken place in the year 2006, but, complaint was lodged only in the year 2007 and hence the very complaint itself is barred by limitation. There is no specific incident narrated by the defacto complainant attracting the offence under Section 498(A) of IPC. Even though, the trial Court, found that there is no material attracting the offence under Section 506(1) of IPC and Section 4 of Dowry Prohibition Act, but, erroneously convicted the petitioner for the offence under Section 498(A) and the lower appellate Court has also without appreciating the evidence properly, simply has confirmed the conviction recorded by the trial Court, which warrants interference of this Court.

4 The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that from the date of marriage, the petitioner caused mental as well as physical cruelty towards the victim and also the petitioner was having illegal relationship with one Bhuvaneswai and harassed the victim and the two children. The victim/P.W.1 made complaint, when she came to know that the petitioner married the said Bhuvaneswari. From the date of marriage to till 24.12.2006, P.W.1 was living with the petitioner and thereafter only they were separated and complaint was lodged on 18.05.2007, which does not barred by any limitation. The petitioner taken all the

jewels of the victim and through the victim, who is his wife and his children. Both the Courts below had rightly appreciated the evidence of prosecution and convicted the petitioner, which does not call for any interference.

5 Heard the learned counsel appearing on either side and perused the materials available on record.

6 It is seen that the petitioner is husband of P.W.1, who is defacto complainant and the victim in this case. P.W.1 in the complaint itself has narrated the cruelty caused by the petitioner. It is seen that from the date of marriage to till 24.12.2006, P.W.1 was living with the petitioner and thereafter only they were separated and complaint was lodged on 18.05.2007. Therefore the contention of the learned counsel that the complaint itself is barred by limitation is not acceptable. Further, cruelty causing by the husband towards his wife is a continuous one and it would not do at once. The petitioner has taken all the jewels of the victim, which were provided to her at the time of marriage by their parents. On reading of the entire evidence of P.Ws.1, 2, 5 and the independent witnesses P.Ws.3 & 4, it reveals that the evidence of all the above witnesses are corroborating with each other, with regard to the cruelty caused by the petitioner. Therefore prosecution has proved its case for the offence under Section 498(A) against the petitioner. The trial Court has rightly appreciated the evidence of prosecution witnesses and convicted the petitioner, even though acquitted the other accused. The lower appellate Court, being a final Court of fact finding, has re-appreciated the entire evidence and confirmed the conviction recorded by the trial Court. This Court does not find any perversity in the judgment of conviction of both the Courts below. This Court, while exercising revisional jurisdiction, cannot re-visit entire evidence and substitute its own views on the findings of the Court below, unless there exists perversity. On reading of the judgments of both the Courts below, this Court does not find any perversity and there is no merit in the revision.

8 In the result, the criminal revision case stands dismissed. Trial Court is directed to secure the petitioner/accused to serve remaining period of imprisonment, if any.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The III Additional District and Sessions Judge,
Coimbatore.
2. Do Thro The Principal District & Sessions Judge,
Coimbatore.
3. The Judicial Magistrate No.I,
Pollachi.
4. The Chief Judicial Magistrate,
Coimbatore (For Information)
5. The Superintendent,
Central Prison, Coimbatore.
6. The Inspector of Police,
All Women Police Station,
Pollachi.
7. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.L.Mouli, Advocate, S.R.No. 71993

Crl.R.C.No.1281 of 2012

VBA (CO)
GN(21/11/2019)



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