

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.1343 of 2012

Rubana Jesintha Hepciba .. Petitioner/de facto
Complainant

Vs.

1. P.Vijay
2. Palani Yesudass
3. Pushpavalli Palanisamy ... Respondents/Accused 1 to 3
4. State represented by
The Inspector of Police,
W2-All Women Police Station,
Adayar, Chennai. ... Respondent/Complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.,
to set aside the judgment and order dated 17.09.2012 passed in
C.C.No.1809 of 2002 on the file of the XXIII Metropolitan
Magistrate Court, Saidapet, Chennai.

For Petitioner : Mr.V.Vijayakumar

For RR 1 to 3 : T.K.Ravi Kumar

For R4 : Mrs.P.Kritika Kamal
Government Advocate (Crl.Side)

O R D E R

This petition has been filed seeking to set aside the
judgment and order dated 17.09.2012 passed in C.C.No.1809 of
2002 on the file of the XXIII Metropolitan Magistrate Court,
Saidapet, Chennai.

2. For the sake of convenience, the parties will be
referred to by their respective name.

3. The long and short of the facts is as under:

3.1 On a complaint lodged by Rubana Jesintha Hecpiba (de facto complainant), the petitioner herein, the Inspector of Police, W2-All Women Police Station, Adayar, Chennai, registered a case in Crime No.34 of 2000 and after completing the investigation, filed a final report in C.C.No.1809 of 2002 before the XXIII Metropolitan Magistrate Court, Saidapet, Chennai, against P.Vijay (A1), Palani Yesudass (A2) and Pushpavalli Palanisamy (A3), for the offences under Sections 498-A and 406 IPC r/w Sections 4 and 6 of the Dowry Prohibition Act r/w Section 34 IPC, in which, the accused were acquitted vide judgment and order dated 17.09.2012.

3.2 Challenging the acquittal order passed by the trial Court, Rubana Jesintha Hecpiba has filed the present revision under Section 397 r/w 401 Cr.P.C.

4. On the directions of this Court, the fourth respondent/police produced P.Vijay (A1) before this Court, who submitted that his mother Pushpavalli Palanisamy (A3) had died on 17.07.2014. He also submitted that his father Palani Yesudass (A2) is bedridden and immobile. He has appeared along with his advocate Mr.T.K.Ravi Kumar (Enrollment No.422 of 1984).

5. Heard Mr.V.Vijayakumar, learned counsel for Rubana Jesintha Hecpiba, T.K.Ravi Kumar, learned counsel for P.Vijay (A1) and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) for the fourth respondent/State.

6. The acquittal in this case was on 17.09.2012 and therefore, the remedy for the de facto complainant is under the proviso to Section 372 Cr.P.C. by filing an appeal before the Court of Session, Chennai. Therefore, this revision is not maintainable before this Court. However, interests of justice will be subserved, if this case is remanded to the Court of the Principal Judge, City Civil Court, Chennai and be heard as a regular appeal under the proviso to Section 372 Cr.P.C.

7. P.Vijay (A1) is directed to appear before the Court of the Principal Judge, City Civil Court, Chennai, at 10.30 a.m., on 11.11.2019, along with his advocate. The advocate engaged by P.Vijay (A1) shall enter appearance for him as well for Palani Yesudass (A2), before the Court of Session.

8. The learned counsel for Rubana Jesintha Hecpiba (de facto complainant) submitted that the petitioner is now settled in the U.S.

9. Be that as it may, on 11.11.2019, Rubana Jesintha Hecpiba should ensure that she engages an advocate to appear before the Court of the Principal Judge, City Civil Court,

Chennai, for prosecuting the appeal. If she does not take steps to engage a counsel in the Court of Session, the Court of Session may appoint a counsel, go through the records and pass orders on merits. The Registry is directed to take a photocopy of the criminal revision and the impugned order and thereafter, despatch the original petition along with the typed set of papers and the trial Court records to the Court of the Principal Judge, City Civil Court, Chennai, forthwith.

With the above directions, this criminal revision is closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

nsd

To

1. The Principal Judge,
City Civil Court,
Chennai.
2. The XXIII Metropolitan Magistrate,
Saidapet, Chennai.
3. The Inspector of Police,
W2-All Women Police Station,
Adayar, Chennai.
4. The Deputy Registrar (Criminal Section),
Madras High Court,
Chennai - 600 104.
5. The Section Officer, सतयमेव जयते
Criminal Section (Records), High Court, Madras.
6. The Section Officer,
E.R. Section, High Court, Madras.
7. The Public Prosecutor, (Crl.Side)
High Court, Madras.

+1 cc to Mr.T.K.Ravikumar, Advocate, S.R.No.86117

Crl.R.C.No.1343 of 2012

VBA(CO)
SSM(15/10/2019)