

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2019

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.RC.NO.1411 OF 2012

AND

CRL.M.P.NO.2 OF 2012

G.Kaviraj

.... Petitioner

vs

State by
The Sub Inspector of Police,
All Women Police Station,
Pollachi,
Coimbatore District.
(Crime No.29 of 2009)

.... Respondent

Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the order in C.A.No.125 of 2011 dated 30.08.2012, on the file of the learned Principal District and Sessions Judge, Coimbatore by confirming the order in C.C.No.24 of 2010 dated 19.05.2011 on the file of the learned Judicial Magistrate-I, Pollachi.

For Petitioner: Petitioner name printed- No appearance

For Respondent: Mr.T.Shanmuga Rajeswaran
Government Advocate (Crl. side)

सत्यमेव जयते
O R D E R

This revision has been filed to set aside the order in C.A.No.125 of 2011 dated 30.08.2012, on the file of the learned Principal District and Sessions Judge, Coimbatore, by confirming the order in C.C.No.24 of 2010, dated 19.05.2011, on the file of the learned Judicial Magistrate-I, Pollachi.

2. Based on the complaint given by P.W.1, the respondent police registered a case against the revision petitioner for the offence under Section 498(A), 406 and 506(i) IPC and laid a charge sheet against him before the learned Judicial Magistrate-I, Pollachi and the same was taken on file in C.C.No.29 of 2009

and framed the charges against the revision petitioner. During trial, before the trial Court, on the side of the prosecution, 7 witnesses were examined and marked 6 documents. On the side of the defence, one witness was examined and no document was marked. After hearing the arguments, the learned Judicial Magistrate found the accused guilty for the offence under Section 498(A) IPC and convicted and sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo three months simple imprisonment; found the petitioner not guilty for the offences under Section 406 and 506(i) IPC.

3. Challenging the said order passed by the learned Judicial Magistrate-I, Pollachi, in C.C.No.24 of 2010, dated 19.05.2011, the petitioner had filed the appeal before the learned Principal District and Sessions Judge, Coimbatore, in C.A.No.125 of 2011. The learned Principal District and Sessions Judge, after hearing the arguments on either side, dismissed the appeal and confirmed the judgment of conviction and sentence passed by the trial Court. Aggrieved against the same, the convict has filed the present revision before this Court.

4. The learned Government Advocate (Crl. side) would submit that the petitioner is husband of P.W.1, P.W.2 is mother of P.W.1, P.W.3 is the younger sister of P.W.2 and P.W.4 is the grandmother of P.W.1. From the evidence of P.Ws.1 to 4, it is seen that the petitioner used to harass his wife/P.W.1 and caused mental and physical cruelty. Further the petitioner had developed illegal intimacy with the own sister of P.W.1. The learned Magistrate as well as the learned Sessions Judge have rightly found that the revision petitioner has committed the offence under Section 498(A) IPC and acquitted him for the offences under Section 406 and 506(i) IPC.

5. Heard the learned Government Advocate (Crl. side) and perused the materials available on record.

6. Today, there is no representation on behalf of the revision petitioner. When the matter was taken up for hearing on 16.07.2019, at request of the learned counsel for the petitioner, the matter was posted on 01.08.2019 under the caption ''for final disposal''. On 01.08.2019, when the matter was came up for hearing, the learned counsel for the petitioner was absent and direction was given to the Registry to remove the name of the learned counsel for the petitioner on record and print the name of the petitioner in the cause list, and the matter was directed to be listed on 05.08.2019.

7. Today, though the petitioner name has been printed in the cause list, neither the petitioner, nor his counsel has appeared

before this Court. Since the revision case is pending from 2012 and despite giving sufficient opportunities, the petitioner has not come forward to conduct his case, this Court is inclined to dispose the case after going through the records and hearing the arguments of the learned Government Advocate (Crl. Side).

8. It is the case of the prosecution that the marriage was solemnized between the revision petitioner and P.W.1 on 30.08.2007. After marriage, P.W.1 was residing in matrimonial home for sometime. The petitioner was not in the habit of providing money to the family expenses. He used to harass his wife and did not go to work for about four months and demanded One lakh rupees from his mother-in-law. But P.W.1 refused to get the money from her parents, for which the petitioner has started to harass her. On 10.09.2009, the petitioner has driven his wife out of his house to her parental house to get money, after beating her. Out of the wedlock, they gave birth to one male child. Subsequently, P.W.1 came to know that the petitioner had developed illicit intimacy with her own sister. When P.W.1 was questioned the revision petitioner about the relationship with her sister, he threatened his wife. Hence, she lodged a complaint against her husband before the respondent police.

9. P.W.2 is the mother of the victim, has corroborated the evidence of P.W.1. P.W.3 is the sister of P.W.2, has supported the case of the prosecution and corroborated the evidence of P.W.1 and P.W.2. P.W.4 is the grandmother of the victim, has clearly stated that the petitioner has harassed P.W.1 and demanded dowry. P.W.7 the Sub Inspector of Police, has investigated the matter and recorded the statement of the witnesses and filed the charge sheet against the revision petitioner. On the side of the defence, the revision petitioner has examined one witness as D.W.1, but he has not established his defence.

10. From the evidence of P.W.1 to P.W.4, both the Courts have found that the petitioner has not committed the offence under Section 406 and 506(i) IPC and acquitted from the said offences. From the evidence of P.W.1 and P.W.2, it is seen that when P.W.2 failed to provide money to the petitioner, he has started to harass her daughter. Both the Courts have rightly appreciated the evidence and found him guilty for the offence under Section 498(A) IPC.

11. The lower Appellate Court is the final Court of fact finding, rightly re-appreciated the entire evidence independently and came to the conclusion that the revision petitioner has committed the offence under Section 498(A) IPC.

12. Since, this Court, being a revisional Court, while

exercising the revisional jurisdiction, the scope of revision is very limited. While deciding a revision, this Court has to see as to whether there is any perversity in appreciation of the evidence by the Courts below. On a reading of the entire materials, it is seen that the revision petitioner has committed the offence under Section 498(A) IPC and there is no perversity with the judgment of the Courts below. Therefore, this Court cannot re-appreciated the evidence and does not find any reason to take a different view in the present case on hand.

13. Both the Courts below have gone through the evidence in detail and that the petitioner was at fault and found him guilty for the offence under Section 498(A) IPC. The prosecution has proved its case with cogent and reliable evidence. Both the Courts below have given reason for conviction. Hence, this Court cannot substitute its own view and interfere with the judgments unless perversity exist therein and there is no merit in the revision.

14. In the result, this Criminal Revision is dismissed. Consequently, connected miscellaneous petition is closed. The trial Court is directed to secure the custody of the petitioner to undergo remaining period of sentence, if any.

Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Coimbatore.
2. The Judicial Magistrate-I, Pollachi.
3. The Chief Judicial Magistrate, Coimbatore.
4. The Public Prosecutor, High Court, Madras.
5. The Sub Inspector of Police,
All Women Police Station, Pollachi, Coimbatore District.

Cr1.RC.No.1411 of 2012
and

Cr1.M.P.No.2 of 2012

MP(CO)
CS/30/01/2020