

Bail Slip

The Petitioner/Accused viz. J.Srinivasan, S/o.Jagadeesan, was directed to be released on bail as per order of this Court dated 30/12/2013 in Crl.MP.No.1 of 2013 in Crl.RC.No.1617 of 2013 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2019

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1617 of 2013

J.Srinivasan

...Petitioner

Vs

State by,  
The Inspector of Police,  
All Women Police Station,  
Madhavaram,  
Chennai.

Crime No.7 of 2007.

...Respondent

Prayer: Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code, to call for records on the file of the learned IV Additional District and Sessions Judge, Ponneri in Criminal Appeal No.34 of 2011 dated 22.11.2013 and ordered to revise the judgment of the learned IV Additional District and Sessions Judge, Ponneri in C.A.No.34 of 2011 dated 22.11.2013 consequently set aside the conviction and sentence imposed on the revision petitioner by the learned Judicial Magistrate, Thiruvottriyur in C.C.No.287 of 2007 dated 17.06.2011 and acquit the petitioner from all the charges.

For Petitioner : MrT.Ravi

For Respondent : Mr.T.Shanmugarajeshwaran  
Government Advocate (Crl Side)

ORDER

The respondent police registered a case against the revision petitioner for the offence under Sections 498(A), 495 IPC and Section 4 of Dowry Prohibition Act, in Crime No. 7 of 2007. After, completion of the investigation the respondent police laid charge sheet before the learned Judicial Magistrate,

Thiruvottriyur. The learned Judicial Magistrate, Thiruvottriyur, taken cognizance of the charge sheet on file in C.C.No.287 of 2007. After completing trial, the learned Judicial Magistrate, Thiruvottriyur, acquitted all the accused for the offence under Section 498 IPC and Section 4 of Dowry Prohibition Act, only convicted the revision petitioner alone for the offence under Section 495 IPC and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- in default to undergo two months imprisonment. Challenging the said judgment passed by the learned Judicial Magistrate, Thiruvottriyur, in C.C.No.287 of 2007 the first accused filed an appeal before the Principal District and Sessions Court, Ponneri. The learned Principal District and Sessions Judge, made over the case to the IV Additional District and Sessions Judge, Ponneri.

2 The learned IV Additional District and Sessions Judge, Ponneri, taken the case on file in C.A.No.34 of 2011. After hearing the arguments advanced on either side, dismissed the appeal and confirmed the judgment passed by the learned Judicial Magistrate, Thiruvottriyur, in C.C.No.287 of 2007. Challenging the said judgment passed by the learned IV Additional Sessions Judge, Ponneri, the convict/Accused No.1 has preferred the present Criminal Revision Case before this Court.

3 Since the revision is pending more than 7 years, already sufficient opportunity was given, the petitioner is not co operating for the disposal of the revision case. Therefore this Court is inclined to dispose of the revision case on merit.

4 The learned Government Advocate (Criminal Side) appearing for the respondent would submit that though, originally charge sheeted for the offence under Section 498(A), 495 IPC and Section 4 of Dowry Prohibition Act. The learned trial Judge, found not guilty for the offence under Section 498 (A) IPC and Section 4 of Dowry Prohibition Act, acquitted all the accused and have convicted the revision petitioner/Accused No.1 alone for the offence under Section 495 IPC. P.W.5 is the wife of the revision petitioner/Accused No.1. The marriage between the revision petitioner and P.W.5 was in subsistence and conducted the second marriage during life time of the first wife, it is liable to be punished under Section 495 IPC. Because, the second marriage is an invalid, the revision petitioner conciled the first marriage and got second marriage with P.W.1. The trial Court considering the evidence of P.W.1 and P.W.5, during life time of the first wife the revision petitioner conducted the second marriage by suppressing the first marriage. Therefore, he has committed an offence under

Section 495 IPC, the Courts below rightly appreciated the evidence and gave a correct findings, which does not warrants any interference by this Court.

5 Heard the learned Government Advocate (Criminal Side) appearing for the respondent and perused the materials available on record.

6 The case of the prosecution is that on 31.01.2005 the revision petitioner married the defacto complainant which was held at Madipakkam, K.K.Mahal, Chennai in the presence of elders and relatives of both the parties as per Hindu rites and customs and the same was an arranged marriage. The Second and third accused in the lower Court are the parents of the revision petitioner. At the time of marriage she was given 30 sovereigns of gold jewels, one Kg., of silver articles and cash of Rs.1,00,000/- as Sreedhana properties. Apart from it she was given all other house hold articles at the time of marriage. After the marriage, they have started their marital life at the revision petitioner's house in a joint family. Out of their wedlock they gave birth to one male child. The revision petitioner and his parents started to ill-treat the defacto complainant to get more dowry from her parents. Since the parents of the defacto complainant were not able to fulfil the demand of dowry and she came to know that on 21.08.2002 the revision petitioner got married by another woman, which was a registered marriage and reception was held on 01.12.2003, suppressing the earlier marriage by the revision petitioner and his parents, he married the complainant. Hence, she preferred a complaint against the revision petitioner and his parents as they have committed the offences mentioned above.

7 During trial, the defacto complainant has not established that the demand of dowry and cruelty. However, she established the fact that during subsistence of marriage, he conciled the first marriage and got second marriage. Therefore, he has committed for the offence under Section 495 IPC.

8 The trial Court not found guilty of all the accused for the offence under Section 498(A) IPC and Section 4 of Dowry Prohibition Act, but, the revision petitioner alone found guilty for the offence under Section 495 IPC. Hence, the learned trial Judge, acquitted the other accused from all the charges and convicted the revision petitioner alone for the offence under Section 495 IPC. Challenging the said judgment of the learned trial Judge, the convict has filed an appeal before the learned Session Court. The learned Sessions Judge, dismissed the appeal and confirmed the conviction passed by the learned trial Judge,

Thiruvottriyur. As against which, the petitioner preferred a present Criminal Revision Case before this Court.

9 On reading of the entire materials, the appellate Court as a final Court of fact finding. It appreciated the entire evidence and convicted the revision petitioner for the offence under Section 495 IPC. While exercising the revisional jurisdiction, this Court does not find any perversity in appreciation of the evidence and this Court cannot exercise the power of the appellate Court and re-appreciate the evidence. When appellate Court as final Court of fact finding already re-appreciated the evidence and given finding, unless there is perversity in re-appreciation of evidence in the findings given by the appellate Court this Court cannot interfere with the said finding.

10 On reading of the entire evidence, this Court does not find any perversity in appreciation of the evidence by the appellate Court. There is no merit in the revision case.

11 Accordingly, the Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate,  
Thiruvottriyur.
2. The IV Additional Sessions Judge,  
Ponneri.
3. The Chief Judicial Magistrate,  
Tiruvallur(For information)
4. The Inspector of Police,  
All Women Police Station,  
Madhavaram, Chennai.
5. The Public Prosecutor,  
High Court, Madras.

+1 cc to M/s.T.Ravi,Advocate Sr.No.71399

AKM/01.11.19/4P-7C /

AKM/18.11.19

Cr1.RC.No.1617 of 2013