

Bail Slip

The Appellant/Accused namely Sathyanarayanan S/o. Balasubramanian aged 51 years was released on bail as per the order dated 11.08.2014 in M.P. 1/2013 in Crl.R.C.No.916 of 2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.916 of 2013

Sathyanarayanan ...Petitioner/Appellant/Accused

Vs.

State rep. By

The Inspector of Police,
All Women Police Station,
Tambaram, Kancheepuram District.
(Cr.No.4 of 2004)

....Respondent/Respondent/Complainant

This Criminal Revision case is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the judgment of conviction in C.A.No.154 of 2006 dated 02.04.2013 by the learned Additional District and Sessions Judge, Kancheepuram District at Chengalpattu, confirming the judgment of conviction in C.C.No.823 of 2004 dated 29.09.2006 by the learned Judicial Magistrate, Tambaram.

For Petitioner : Mr.T.R.Ravi

For Respondent : Mr.T.Shanmumugarajeswaran,
Govt. Advocate (Crl.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 revision petitioner for the offence under Sections 498(A) and 506(2) of IPC. After investigation laid a charge sheet before the learned Judicial Magistrate, Tambaram, and the learned Magistrate has taken the charge sheet on file in C.C.No.823 of

2004. After trial, the learned Magistrate by judgment dated 29.09.2006, convicted the revision petitioner for the offence under Section 498(A) and sentenced to undergo rigorous imprisonment for a period of two years. Challenging the same, the revision petitioner has filed an appeal in C.A.No.154 of 2006 and the learned Additional District and Sessions Judge, after hearing both the counsel and after perusing the entire records, by judgment dated 02.04.2013, confirmed the conviction recorded by the trial Court and dismissed the appeal. Aggrieved against the concurrent judgment of conviction, the petitioner is before this Court with the present criminal revision.

3 According to learned counsel appearing for the petitioner, the defacto complainant was examined as P.W.1 and she has given evidence in an improved version at every stage and made false allegations against the revision petitioner and there is no corroboration for the allegations leveled against this petitioner. Even though charges framed against the petitioner for the offence under Sections 498(A) and 506(2) of IPC, the learned trial Judge found that prosecution has failed to prove the offence under Section 506(2) and extending benefits of doubt on the same, acquitted the petitioner for the offence under Section 506(2) of IPC. P.W.2 is sister and P.Ws.3 & 4 are brothers and they are all interested witnesses and also only hear say witnesses. All the allegations levelled against the revision petitioner said to have taken place in the mid night within the four corners of room and hence P.Ws.2 & 4 could not be eye witnesses to the occurrence. P.W.1, the victim has exaggerated her version and the allegations levelled by the defacto complainant/P.W.1 are unbelievable and no prudent man would do such allegations stated by the defacto complainant. Both the Courts below have failed to appreciate the evidence in a right manner and considering the evidence of P.Ws.1 & 2, convicted the petitioner. Even the deposition of P.W.1 itself shows that the way in which she has deposed is only parrot version, since one of her sisters was Sub-Inspector of Police, which itself is doubtful and not believable. The lower appellate Court has also failed to appreciate the evidence and simply followed the decision of the trial Court, which warrants interference of this Court.

4 The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that P.W.1 is victim and she clearly deposed that after marriage between her and the accused, he caused mental as well as physical cruelty and he had taken all her jewels forcibly. P.W.2, the sister of P.W.1 had deposed that the petitioner/accused had complained directly several times about P.W.1 and also certain affairs between the husband and wife, which no husband reveal to any third person, which itself prove the cruelty caused by the petitioner/accused.

Both the trial Court as well as the lower appellate Court had rightly appreciated the evidence of prosecution witnesses and convicted the petitioner, which does not call for any interference. The learned counsel further sought indulgence of this court stating that the petitioner is counting his days and hence atleast sentence imposed on the petitioner alone may be modified by imposing any fine.

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

6 Case of the prosecution is that the marriage between the petitioner and the defacto complainant was solemnized on 11.06.2003 at Vadapalani Thirukoil as per Hindu Rites and Customs and at the time of marriage 15 sovereigns of gold and Sridhana articles were provided to the defacto complainant by her family. After marriage, the defacto complainant was living with the petitioner at his house along with the children born through first wife of the petitioner. The defacto complainant and her family members were well aware of the marital status of the petitioner that he already married and lost his wife. Next day of the marriage, the petitioner consumed alcohol and disclosed his experience with the defacto complainant during physical relationship to his friends and he made one unknown person in the Bedroom and when the defacto complainant on seeing the person, tried to ran away from the place, the petitioner/accused threatened her stating that he would set fire on her, if she reveals to anyone and thereby the petitioner committed offence under Sections 498(A) and 506(2) IPC.

7 It is seen that the defacto complainant made several allegations against the petitioner in her complaint/Ex.P1 itself. On reading of the entire materials, it reveal that P.W.1, being victim has clearly narrated the cruelty caused by the petitioner. P.W.2 is sister of P.W.1 and her evidence also corroborated with the evidence of the victim. Even the petitioner telephoned P.W.2 and made complaint against P.W.1 and disclosed some affairs, which has taken place between the husband and wife. On reading of evidence of P.Ws.1 to 4, this Court does not find any reason to interfere with the concurrent judgments of conviction of both the Courts below. The trial Court has rightly appreciated the evidence of prosecution witnesses and convicted the petitioner and the lower appellate Court, being a final Court of fact finding, re-appreciated the entire evidence, and confirmed the conviction made by the trial Court. This Court, while exercising revision jurisdiction, cannot exercise power of appellate Court and substitute its own view on the finding of the lower Court, unless there exists perversity. This Court does not find any perversity in appreciation of evidence by both the Courts below. Further,

this Court is not inclined to show any leniency on the petitioner, considering the nature of offence committed by him.

8 In the result, the criminal revision case stands dismissed as devoid of merit and substance. Trial Court is directed to secure the petitioner/accused to undergo remaining period of sentence, if any.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1. The Additional District and Sessions Judge, Kancheepuram District at Chengalpattu.
2. The Judicial Magistrate, Tambaram.
3. The Public Prosecutor, High Court of Madras.
4. The Inspector of Police, All Women Police Station, Tambaram, Kancheepuram District.
5. The Chief Judicial Magistrate, Chengalpattu

copy to

The Section officer
Criminal Section
High Court, Madras 104.

+1 CC to Mr.T.R.Ravi, Advocate sr 73506.

Cr1.R.C.No.916 of 2013

सत्यमेव जयते

PVS (CO)
SP(21/11/2019)

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