

Bail Slip

The Petitioner/Accused viz., Subramani S/o Arunachalam was directed to be released on bail as per order of this Court dated 27/01/2016 in Crl.M.P.No.782/2016 in Crl.R.C.No.112/2016 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2019

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.R.C.No.112 of 2016

Subramani ... Petitioner/Accused

-Vs-

State rep. by
The Inspector of Police
All Women Police Station
Kondalampatty Police Station
Salem.

... Respondent/Complainant

Criminal Revision Petition filed under section 397 r/w 401 of the Code of Criminal Procedure to set aside the order dated 21.07.2015 made in Crl.A.No.98 of 2014 on the file of I Additional District and Sessions Judge, Salem, by confirming the judgment dated 14.07.2014 made in C.C.No.32 of 2013, on the file of the Judicial Magistrate Court, Additional Mahila Court, Salem and allow the above Criminal Revision.

For Petitioner : Mr.C.Prabakaran

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

O R D E R

This Criminal Revision Petition has been filed to set aside the order dated 21.07.2015 made in Crl.A.No.98 of 2014 on the file of I Additional District and Sessions Court, Salem, confirming the judgment dated 14.07.2014 made in C.C.No.32 of 2013, on the file of the Judicial Magistrate Court, Additional Mahila Court, Salem and allow the above Criminal Revision.

2. When the matter is taken up for hearing, the learned Government Advocate submitted that the revision petitioner/accused died on 06.04.2019 and she has also produced a copy of the Death Certificate.

3. The learned counsel for the revision petitioner submitted that he has no instructions.

4. It is seen that the legal heirs of the revision petitioner have not come forward to implead themselves to prosecute the revision petition. Hence, this Court perused the records. The petitioner got married to one Janaki-P.W.1 on 02.07.2006 and after their marriage, the revision petitioner/accused started demanding a sum of Rs.60,000/- to repay the loan that he had taken for purchasing a two-wheeler. When Janaki and her parents were not able to repay the loan, she was subjected to cruelty. On the complaint given by Janaki-P.W.1, the police registered a case in crime No.1/2010 for the offence under Section 498-A IPC and after completing the investigation, filed final report in C.C.No.32 of 2013 before the Judicial Magistrate, Additional Mahila Court, Salem, under Section 498-A IPC against the petitioner herein. On appearance of the petitioner under the provisions of Section 207 Cr.P.C. free copies of documents were furnished to him and a charge under Section 498-A IPC was framed. When questioned, the petitioner denied the charge. To prove the case, prosecution examined 10 witnesses and marked 4 exhibits. When the petitioner was questioned under Section 313 Cr.P.C. about incriminating circumstances framed against him, he denied the same. No witness was examined on behalf of the petitioner. After considering the evidence on record and hearing either side, the Trial Court convicted the accused under Section 498-A IPC and sentenced him to undergo 1 year Rigorous Imprisonment and to pay fine of Rs.1,000/-, in default to undergo 3 months Simple Imprisonment. The appeal in CrI.A.No.98 of 2014 filed by the petitioner was dismissed on 21.07.2015 by I Additional District and Sessions Judge, Salem. Challenging the same, the petitioner has filed the present revision petition.

5. Though the petitioner died on 06.04.2019, since the revision has been admitted by this Court, it is necessary for this Court to go through the records in order to find out that if there is any impropriety or illegality in the orders passed by the Courts below.

6. Before advertng to the rival submissions, it may be necessary to state here that, while exercising revisional powers under Section 397 r/w 401 Cr.P.C., this Court is required to find out, if there is any illegality or impropriety in the findings of the trial Court and the appellate Court warranting interference and it is not open to this Court to exercise the revisional power as a second appellate forum. In this context, it is profitable to allude to the following paragraphs in the judgment of the Supreme Court in State of Maharashtra Vs. Jagmohan Singh Kuldip Singh Anand and Others, etc. [(2004)7 SCC 659]

"22.The revisional court is empowered to exercise all the powers conferred on the appellate court by virtue of the provisions contained in Section 401 CrPC. Section 401 CrPC is a provision enabling the High Court to exercise all powers of an appellate court, if necessary, in aid of power of superintendence or supervision as a part of power of revision conferred on the High Court or the Sessions Court. Section 397 CrPC confers power on the High Court or Sessions Court, as the case may be,

"for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order, recorded or passed, and as to the regularity of any proceedings of such inferior court".

It is for the above purpose, if necessary, the High Court or the Sessions Court can exercise all appellate powers. Section 401 CrPC conferring powers of an appellate court on the revisional court is with the above limited purpose. The provisions contained in Section 395 to Section 401 CrPC, read together, do not indicate that the revisional power of the High Court can be exercised as a second appellate power.

(emphasis supplied)

23.On this aspect, it is sufficient to refer to and rely on the decision of this Court in Duli Chand v. Delhi Admn. [(1975) 4 SCC 649 : 1975 SCC (Cri) 663 : AIR 1975 SC 1960] in which it is observed thus: (SCC p. 651, para 5)

"The High Court in revision was exercising supervisory jurisdiction of a restricted nature and, therefore, it would have been justified in refusing to reappreciate the evidence for the purposes of determining whether the concurrent finding of fact reached by the learned Magistrate and the learned

Additional Sessions Judge was correct. But even so, the High Court reviewed the evidence presumably for the purpose of satisfying itself that there was evidence in support of the finding of fact reached by the two subordinate courts and that the finding of fact was not unreasonable or perverse."

7. This Court carefully perused the deposition of the prosecution witnesses, especially, the evidence of P.W.1, who has deposed about the harassment that was meted out by the petitioner in the matrimonial home. She also stated that the petitioner was demanding a sum of Rs.60,000/- from her parents and was threatening that he will marry another lady. The defence was not able to demolish the testimony of P.W.1. Under such circumstances, this Court does not find any serious infirmity in the orders passed by the Courts below warranting interference. In the result, the Criminal Revision Petition stands dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

To

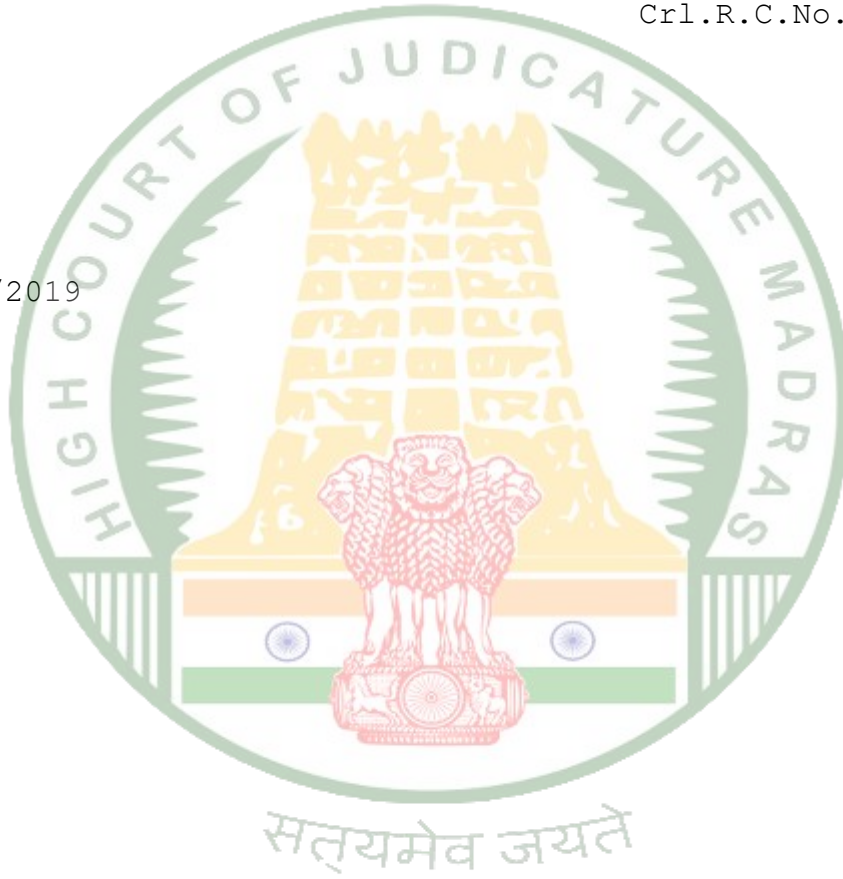
1. The Judicial Magistrate
Additional Mahila Court
Salem.
2. The I Additional District & Sessions Judge,
I Additional District & Sessions Court,
Salem.
3. The Public Prosecutor
High Court, Chennai.
4. The Inspector of Police,
All Women Police Station,
Kondalampatty Police Station,
Salem.

5.The Chief Judicial Magistrate,
Salem.

+1cc to M/s.C.Prabakaran, Advocate Sr.55050

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