

Bail Slip

The Petitioner/Accused namely Murugavel S/o Kannan was directed to be released on bail as per the order of this court dated 01/03/2016 in Crl MP No.2220/2016 in Cr.RC.No.329 of 2016 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.RC.No.329 of 2016

Murugavel ...Petitioner/Accused

Vs.

The State represented by
The Inspector of Police,
All Women Police Station,
Chidambaram,Cuddalore District.
(Cr.No.02 of 2009) ... Respondent/Respondent/Complainant

PRAYER: The Criminal Revision Petition has been filed, under Sections 397 & 401 of Cr.P.C, to call for the records and set aside the judgment in Crl.A.No.08 of 2015 dated 17.11.2015 passed by the learned II Additional District and Sessions Court, Chidambaram, confirming the conviction judgment made in S.T.C.No.1191 of 2009 dated 28.01.2015, passed by the learned Judicial Magistrate No.II, Chidambaram.

For Petitioner : Mr.G.Pugazhenthiraj

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

J U D G M E N T

This revision has been filed against the judgment passed in Crl.A.No.8 of 2014, by the Second Additional District and Sessions Court, Chidambaram, partly allowing the appeal, acquitting the accused for the offences under Section 417 of IPC and convicting the appellant for the offence under Section 506(i) IPC, against the judgment of the learned Judicial Magistrate No - II, Chidambaram, in STC.No.1191 of 2009, dated 28.01.2015, whereby the petitioner/appellant was found guilty and convicted for the offence under Sections 417 and 506 (i) of IPC.

2. The brief facts of the case are as follows:

PW1/Thillaikarasai lodged a complaint against the petitioner on 06.03.2009 before the respondent police, alleging that she had intimacy with one Baskar S/o Vengatachalam, a resident of Thennanthoppu Street, Chidambaram from the year 1996, as a result of which, a female child was born and the child is now aged about eight years and the said Baskar had deserted her. Thereafter, during the year 2002 she had developed intimacy with the petitioner and the petitioner had promised to marry her and take care of her child born through Baskar, pursuant to which, the petitioner married the defacto complainant at Vaitheeswaran Koil and they were living together as wife and husband. Due to the relationship, she had begotten a female child viz., Tulasidevi, who is now aged about 1½ years. Her further allegation is that the petitioner deserted her and was taking steps to marry his aunt's daughter and he has also threatened her to go away from his life. Based on the complaint given by the petitioner, the respondent police had registered a case in Crime No.02 of 2009 for offences under Sections 417 & 506(i) of IPC. After completion of investigation, charge sheet was filed against the petitioner in STC.No.1191 of 2009 before the learned Judicial Magistrate No - II, Chidambaram, for the offence under Sections 417 and 506(i) of IPC. The prosecution in order to prove the charges against the petitioner, had examined thirteen witnesses as PW.1 to PW 13 and marked five exhibits as Ex.P.1 to Ex.P.5. No witness was examined on the side of the defence.

3. The Trial Court after completion of full fledged trial, found the petitioner guilty for the offence under Sections 417 and 506(i) of IPC and convicted the petitioner to undergo one year rigorous imprisonment for the offence under Section 417 of IPC and one year rigorous imprisonment for the offence under Section 506(i) of IPC and ordered the sentences to run consecutively. As against the said conviction and sentence, the petitioner has preferred an appeal before the learned Second Additional District and Sessions Judge, Chidambaram and the lower Appellate Court vide judgment dated 17.11.2015 partly allowed the appeal and acquitted the petitioner for the offence under Section 417 of IPC and however, found the petitioner guilty for the offence under Section 506(i) of IPC and modified the sentence of imprisonment to three months rigorous imprisonment. As against which, the present revision has been filed.

4. The learned counsel appearing for the petitioner would submit that except PW.1 no other witnesses have spoken about the petitioner having criminally intimidated PW 1 and that there being no evidence on record, the court below erred in convicting the petitioner. He would submit that in order to bring the offence under Section 506(ii) of IPC, the threat should be real one and not just mere words. Taking into consideration the evidence of PW.1 she had not stated that she

had felt any fear for life and therefore the offence under Section 506(ii) of IPC is not made out. Further empty threat does not prima facie meaning that the case under Section 506 of IPC is made out as against the petitioner. In order to make out the case for the offence under Section 506(i) of IPC there should be evidence to show that by such threat the complainant was criminally intimidated. In support of his submission he relied on the judgment of this Court in the case of Rajan-vs-Inspector of Police, Central Crime Branch, Tiruppur reported in 2008(2) Mad WN(Cri.)258, where in it is held as follows:

" 8. The next allegation raised by the petitioner is alleged criminal intimidation. It is fairly submitted by the learned Additional Public Prosecutor that there is no whisper about the criminal intimidation in the complaint and such allegation was made subsequently during the course of examination of witnesses. It is seen that a bald and vague allegation of criminal intimidation was made only at a later stage and the same is nothing but an after - thought.

9. This Court in a decision in Noble Mohandass v.State. 1989 Cri.L.J 669 has held as follows:

Further for being an offence under Section 506 (ii) which is rather important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when the person uttering it does exactly mean what he says and also when the person at whom threat is launched does not feel threatened actually. In Fact PW 1 when she filed the complaint to the police office, did not express any fear for her life nor asked for any protection.

10. In a similar offence, the Punjab and Haryana High Court quashed the proceedings in respect of the offence under Section 506(ii) IPC in a case in Usha Bala v.State of Punjab (P&H), 2002(2) C.C. Cases 320(P&H), that

" Empty threat does not prima facie mean that the case U/s.506, IPC is made out against the petitioner. Hence, in fact no case is made out against the petitioner.

Consequently FIR No.313 dated 15.07.1999 U/s.406/498(A) IPC of Police Station, Sadar, Patiala is quashed qua the petitioner only"

5. He also relied on the judgment of the Apex Court in the case of Vikram Johnar -vs- State of Uttar Pradesh and another in Criminal Appeal No. 759 of 2019.

"27. Now, reverting back to Section 506, which is offence of criminal intimidation, the principles laid down by Fiona Shrikhande (supra) has also to be applied when question of finding out as to whether the ingredients of offence are made or not. Here, the only allegations is that the appellant abused the complainant. For proving an

offence under Section 506 IPC, what are ingredients which have to be proved by the prosecution ? Ratanlal & Dhirajlal on Law of Crimes, 27th Edition with regard to proof of offence states following:

The prosecution must prove

(i) That the accused threatened some person

(ii) That such threat consisted of some injury to his person, reputation or property of some one in whom he was interested

(iii) That he did so with intent to cause alarm to that person; or to cause that person to do any act which he was not legally bound to do, or omit to do any act which he was legally entitled to do as a means of avoiding the execution of such threat ".

6. The learned Additional Public Prosecutor would submit that PW 1 was threatened by the petitioner and the appellate Court had rightly convicted the petitioner for the offence under Section 506(ii) of IPC.

7. This Court analyzed the entire evidence in consonance with the above judgements referred to by the learned counsel for the petitioner.

8. On perusal of the materials available on record except PW1 no body else has spoken about the alleged threat said to have been wielded by the petitioner. Even admitting the evidence of PW 1 she has not stated that she felt threatened and that she feared for her life and thereby the ingredients of offence under Section 506 of IPC have not been made out. Therefore this Court is of the opinion that the courts below without properly analyzing the evidence have wrongly convicted the petitioner. The observation made by the trial court for convicting the petitioner for offence under Section 506(i) of IPC is not proper.

9. In the result, the Criminal Revision Petition stands allowed and the judgment made in CrI.A.No.08 of 2015, dated 17.11.2015 passed by the learned Second Additional District and Sessions Court, Chidambaram, convicting the petitioner for the offence under Section 506(i) IPC is set aside.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

To

- 1.The II Additional District and Sessions Court,
Chidambaram.
 - 2.The Judicial Magistrate No.II,
Chidambaram.
 3. The Principal Sessions Judge,
Cuddalore.
 - 4 All Women Police Station,
Chidambaram,Cuddalore District.
 - 5.The Public Prosecutor,
High Court, Madras.
 6. The Chief Judicial Magistrate,
Cuddalore (for information).
- +1cc to Mr.G.Pugazhenthii, Advocate SR.No.89499

Crl.RC.No.329 of 2016

VBA (CO)
GMY (19/03/2020)



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