

Bail Slip in Crl Rc. No.605 of 2018

1.Dhamodaran S/o.Elumalai
2.Sulochana W/o.Elumalai
3.Nirmala D/o.Elumalai

were directed to be released on bail in any by the order of this Court made in Crl MP No.7003/18 in Crl RC No.605/201

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2019

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.R.C.No.605 of 2018

1.Dhamodaran
2.Sulochana
3.Nirmala

... Petitioners

-Vs-

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

... Respondent

Criminal Revision Petition filed under section 397 r/w 401 of the Code of Criminal Procedure to set aside the judgment in Crl.A.No.163 of 2017 dated 19.04.2018 on the file of the Hon'ble Principal District and Sessions Judge, Tiruvallur, modifying the judgment in C.C.No.69 of 2010 dated 09.11.2017 on the file of the Hon'ble Judicial Magistrate, Tiruvotriyur and allow the Criminal Revision Petition.

For Petitioners : Mr.Suresh Sakthi Murugan

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

O R D E R

This Criminal Revision has been filed to set aside the judgment dated 19.04.2018 passed in Crl.A.No.163 of 2017 on the file of the Principal District and Sessions Court, Tiruvallur, modified the judgment dated 09.11.2017 passed in C.C.No.69 of 2010 on the file of the Judicial Magistrate Court, Tiruvotriyur and allow the Criminal Revision Petition.

2. R.Amudha/de facto complainant got married to Damodharan on 01.02.2009 and thereafter, they got estranged. On the complaint lodged by Amudha/de facto complainant, the police registered a case in Crime No.3 of 2009 and after completing the investigation filed a final report in C.C.No.69 of 2010 before the Judicial Magistrate, Thiruvottiyur, against Damodharan (A1), his mother Sulochana (A2) and his sister Nirmala (A3) for the offence under Section 498-A IPC. The prosecution examined seven witnesses and marked three exhibits. After considering the evidence on record, the trial Court by judgement dated 09.11.2017 in C.C.No.69 of 2010, convicted A1 to A3 for the offence under Section 498-A IPC and sentenced them to undergo two years Rigorous Imprisonment and to pay a fine of Rs.5,000/- in default to undergo 1 month Simple Imprisonment. Challenging the conviction and sentence, A1 to A3 filed CrI.A.No.163 of 2017, in which, the Principal District and Sessions Judge, Tiruvallur, confirmed the conviction, however, reduced the sentence from two years Rigorous Imprisonment to one year Rigorous Imprisonment. Challenging the conviction and sentence, A1 to A3 have filed the present revision petition.

3. During the pendency of the revision petition, it is reported that the de facto complainant and the accused have entered into a memorandum of settlement (in Tamil) dated 24.06.2019.

4. Today, Amudha/de facto complainant, along with her counsel Mr.P.R.Ajaykumar, Enrol.No.477 of 1993 and Damodharan (A1) Sulochana (A2) and Nirmala (A3) along with their counsel Mr.A.Suresh Sakthi Murugan are present before this Court.

5. The learned counsel for the petitioners/accused placed reliance on the judgement of the Supreme Court in Bitan Sengupta and Others Vs. The State of West Bengal and Others, 2018 (9) SCALE 249, wherein the Supreme Court has permitted the parties to compound the offence under Section 498-A IPC even after conviction by the trial Court and the Appellate Court.

6. Amudha/de facto complainant, has filed an affidavit dated 24.06.2019, wherein she has stated as follows:

"I submit that aggrieved on the said

judgements, the petitioners had filed the present revision petition before this Hon'ble Court. In the meanwhile, there were petitions filed before the Hon'ble Family Court, Chennai, in which, a compromise has been arrived between me and the first petitioner on 24.06.2019. We mutually agreed to file joint divorce petition and the first petitioner agreed to pay Rs.8,75,000/- (Rupees Eight Lakhs Seventy Five Thousand Only) as permanent alimony cum past, present and future maintenance amount, a full and final settlement. Since I had not filed any petition for returning of sreedhana articles, the same was in the possession of the first petitioner. As per the memorandum of understanding, on today i.e. 24.06.2019, the first petitioner had returned the gold ornaments of 10 sovereigns along with Rs.1,75,000/- for remaining 7 sovereigns of golden ornaments and Rs.1,00,000/- (Rupees One Lakh Only) given at the time of marriage for the expenses and also he has paid today Rs.2,25,000/- as the first installment of maintenance cum permanent alimony to me.

I submit in this content I humbly praying this Hon'ble Court to set aside the judgements of the lower Courts convicting and sentencing the petitioners U/s.498A IPC and release them to bring peace in our life. I humbly submit that I wholeheartedly states that I have no objection for the above relief. "

7. The memorandum of settlement (in Tamil) dated 24.06.2019 has also been filed before this Court. According to the terms of settlement, Amudha/de facto complainant, has agreed to receive the total sum of Rs.11,50,000/- as full and final settlement from the accused. The parties have also agreed to file a divorce petition by mutual consent before the jurisdictional Court. Out of Rs.11,50,000/-, Amudha/de facto complainant, has already received a sum of Rs.5,00,000/- vide demand draft bearing No.836065 dated 21.06.2019 drawn on the Union Bank of India, Madhavaram Branch, the receipt of which was acknowledged. Today, a demand draft for a sum of Rs.3,00,000/- bearing No.836123 dated 15.07.2019 drawn on the Union Bank of India, Madhavaram branch, has been handed over to Amudha/de facto complainant in the open Court. The balance amount of Rs.3,50,000/- will be given to Amudha/de facto complainant in two installments. The first installment of Rs.2,00,000/- will

be given to her at the time of filing the divorce petition by mutual consent before the jurisdictional Court. The last installment of Rs.1,50,000/- will be given to her at the time of taking evidence in the divorce petition. Apart from all these, at the request of Amudha/de facto complainant, a solatium of Rs.50,000/- by cash has been handed over to her in the open Court by the accused.

8. In view of the above, this Criminal Revision case is allowed. The judgment dated 19.11.2017 passed by the Judicial Magistrate, Tiruvotriyur, in C.C.No.69 of 2010 and the judgment dated 19.04.2018 passed by the Principal District and Sessions Judge, Tiruvallur, in CrI.A.No.163 of 2017 are hereby set aside and the accused are acquitted. Fine, if any paid by the accused shall be refunded to the accused.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

mk

To

1. The Principal District and Sessions Judge,
Tiruvallur.
2. The Judicial Magistrate,
Tiruvotriyur
3. -do- Chief Judicial Magistrate,
Tiruvotriyur
4. Inspector of Police
All Women Police Station
Madhavaram, Chennai.
5. The Public Prosecutor
High Court, Chennai.

+3cc to Mr.Suresh Sakthi Murugan, Advocate SR.No.66508

CrI.RC.No.605 of 2018

NR(CO)
GMY(16/08/2019)