

BAIL SLIP

The Appellant/Accused No.1, namely M.Dilip Kumar, S/o.S.Mahendran, was directed to be released on bail as per order of this Court dated 21.08.2018 made in Crl.MP.NO.10993 of 2018 in Crl.R.C.No.950 of 2018 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.950 of 2018

M.Dhilip Kumar ...Petitioner/Accused No.1

-Vs-

The State repled. by
Inspector of Police,
W-15, All Women Police Station,
Rayapuram, Chennai - 600 013.
[Cr.No.5 of 2015] ...Respondent/Complainant

This Criminal Revision case is filed under Sections 397 read with Section 401 of Cr.P.C. to call for the records in C.A.No. 69 of 2018 on the file of the learned XV Addl. Sessions Judge, Chennai, and set aside the Judgment dated 23.07.2018 passed thereon, and thereby set aside the Judgment dated 25.01.2018 passed in C.C.No. 2691 of 2016 by the Learned XVI Metropolitan Magistrate Court, G.T., Chennai, as far as the Petitioner/Appellant/Accused -1 is concerned, and consequently acquit the Petitioner.

For Petitioner : No appearance

For Respondent : Mr.Ravichandran
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C. to call for the records in C.A.No.69 of 2018 on the file of the learned XVI Metropolitan Magistrate, George Town, Chennai - 1 in C.C.No.2691 of 2016 dated 25.01.2018 and to

set aside the Judgment dated 23.07.2018 passed thereon, and thereby set aside the Judgment dated 25.01.2018 passed in C.C.No. 2691 of 2016 by the Learned XVI Metropolitan Magistrate Court, G.T., Chennai, as far as the petitioner / Appellant / Accused - 1 is concerned and consequently acquit the petitioner.

2. The petitioner is the accused. The respondent police registered a case against the petitioner/accused for the offence under Section 498 (A) IPC in Cr.No.05/2015. After investigation, a charge sheet was laid and the learned XVI Metropolitan Magistrate, George Town, Chennai - 600 001 has convicted the petitioner/accused under Section 498 (A) IPC and sentenced him to undergo two years rigorous imprisonment and to pay a fine of Rs.5000/- in default to undergo one month simple imprisonment.

3. Challenging the same, the petitioner filed an appeal in C.A.No.69 of 2018, the learned XV Additional Sessions Judge, Chennai dismissed the appeal and confirmed the conviction and sentence passed by the learned XVI Metropolitan Magistrate, George Town, Chennai - 1 in C.C.No.2691 of 2016 dated 25.01.2018.

4. The present revision petition was posted on 28.02.2019 and thereafter, at request it was adjourned to 15.03.2019 for 'final disposal'. Even after that, at request it was adjourned today. However, none appeared on behalf of the revision petitioner. Despite sufficient opportunity given, he has not come forward to argue the revision petition. Therefore, this Court is inclined to dispose the revision petition on merits .

5. The learned Government Advocate (Crl. side) would submit that the defacto complainant is the wife of the revision petitioner. She lodged a complaint before the respondent police and after investigation the learned XVI Metropolitan Magistrate, George Town, Chennai - 1, in C.C.No. 2691 of 2016 dated 25.01.2018, observed that the petitioner has committed offence under Section 498 A of IPC. The learned XVI Metropolitan Magistrate also dismissed the appeal filed by the petitioner stating that there is no merits in the appeal. He would further submit that even today, there is no representation for the revision petitioner and therefore, prays to dismiss the present petition.

6. A perusal of the records PW2, PW3 and PW5 have been shown as eye witnesses. PW2 has narrated entire incidents PW3, PW4 and PW5 have corroborated the evidence of PW2. There is no material contradiction found out from their evidence. There is no reason to discard the evidence of PW2. The prosecution has established its case with cogent and reliable evidence. There is no reason to interfere with the judgements of both the courts below.

7. This Court as a revisional Court has a limited

jurisdiction and has no power to re-assess the entire evidence. In this regard, it is pertinent to refer the decision of the Honourable Apex Court in the case of State of Kerala vs. Putthumana Illath Jathavedn Namboodri, reported in AIR 1999 SC 981 held as follows:

"...In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of Supervisory Jurisdiction exercised by the High Court for correcting miscarriage of Justice. But the said revisional power cannot be equated with the power of an Appellate Court nor can it be treated even as a second Appellate Jurisdiction. Ordinarily, therefore, it would not be appropriate for High Court to re-appreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of Justice..."

8. Therefore, under these facts and circumstances, this Court does not find any merits in the revision petition and also does not find any perversity in the Judgment of the appellate court and the same is hereby confirmed. Therefore, the revision is liable to be dismissed and accordingly, the Criminal Revision case is dismissed.

Sd/-
Assistant Registrar(CS VI)

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सत्यमेव जयते
Sub Assistant Registrar

kmm

To

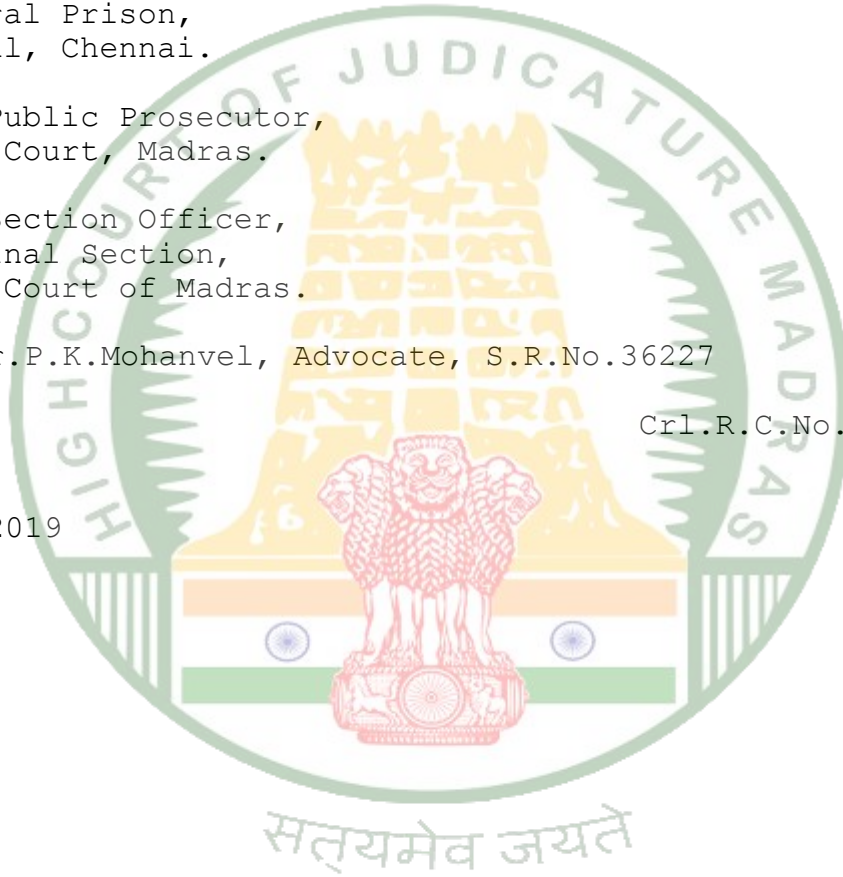
1. The Learned XVI Metropolitan Magistrate Court,
G.T., Chennai,
2. Do Thro' The Chief Metropolitan Magistrate,
Egmore, Chennai.

3. The learned XV Addl. Sessions Judge,
Chennai.
4. The Principal Sessions Judge,
Chennai.
5. The Inspector of Police,
W-15, All Women Police Station,
Rayapuram, Chennai - 600 013.
[Cr. No. 5 of 2015]
6. The Superintendent,
Central Prison,
Puzhal, Chennai.
7. The Public Prosecutor,
High Court, Madras.
8. The Section Officer,
Criminal Section,
High Court of Madras.

+1cc to Mr.P.K.Mohanvel, Advocate, S.R.No.36227

Cr1.R.C.No.950 of 2018

SKV(CO)
CS/27/06/2019



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