



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

Crl.R.C(MD)No.176 of 2011

Balasubramanian

... Petitioner

Vs

State,

Represented by the Inspector of Police,
All Women Police Station,
Pudukkottai.
(Crime No.25/2011)

... Respondent

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records of the learned Additional District and Sessions Judge (FTC), Pudukkottai in Crl.A.No.49 of 2009, dated 11.02.2011, confirming the conviction and sentence of imprisonment imposed by the learned Judicial Magistrate, Pudukkottai in C.C.No.545 of 2001, dated 10.12.2009 and set aside the Judgments of the Courts below and acquit the petitioner.

For Petitioner : Mr.S.Deenadhayalan

For Respondent : Mrs.S.Bharathi
Government Advocate (Crl.side)

ORDER

The petitioner was in physical relationship with the defacto complainant Rajakumari. As a result, she became pregnant. When she wanted the petitioner to marry her, the petitioner and his family are said to have demanded dowry. Since the defacto complainant was not in a position to comply with the said demand, the petitioner refused to marry her. Hence, the said Rajakumari lodged a complaint before the All Women Police Station, Pudukkottai and the same was registered as Crime No.25 of 2001. The matter was investigated and final report was filed. Cognizance was taken for the offence under Section 417 of IPC and Section 4 of Dowry Prohibition Act not only against the petitioner but also against his parents. The accused pleaded not guilty to the charges and claimed to be tried. The prosecution examined as many as 12 witnesses. Ex.P1 to Ex.P7 were marked. On the side of the accused, no evidence was adduced. The trial Judge, after a detailed consideration of the evidence on record, came to the conclusion that the charge under Section 4 of Dowry Prohibition Act have not been established and acquitted all



the accused in respect of the said charge. However, the petitioner herein was found guilty of the offence under Section 417 of IPC. The petitioner was sentenced to undergo one year simple imprisonment. The petitioner had been in prison since 06.09.2001 to 12.09.2001. The same was directed to be excluded in terms of Section 428 of Cr.P.C. Questioning the same, the petitioner filed Criminal Appeal No.49 of 2009 before the Additional District and Sessions Judge, Pudukkottai. The same was dismissed on 11.12.2011. Challenging the same, this revision petition has been filed.

2.When the matter was taken up for hearing, the learned counsel appearing for the revision petitioner submitted that he would not question the finding of guilt. Having regard to the evidence on record, he only wanted some leniency to be shown in the matter of punishment. This Court indicated that the period of imprisonment would be reduced to the period already undergone only if the revision petitioner is willing to be put on terms. It is not in doubt that as a result of the physical intimacy between the revision petitioner and Rajeswari, a male child Mani @ Manikandan was born. The boy is now with his grant mother. The revision petitioner through his counsel has filed an affidavit before this Court that he is the father of Mani @ Manikandan. He has also undertaken to deposit a sum of Rs.50,000/- to the credit of C.C No.545 of 2001 on the file of the Judicial Magistrate, Pudukkottai within a period of eight weeks from the date of receipt of a copy of this order. It is open to the son of the revision petitioner, namely, Mani @ Manikandan to withdraw a sum of Rs.10,000/- immediately after it is deposited and the remaining amount of Rs.40,000/- in four annual instalments.

3.The learned trial court shall deposit the said amount of Rs.40,000/- after the first instalment is withdrawn in an interest bearing account in any nationalised bank. If the revision petitioner fails to deposit the said amount as undertaken before this Court, the sentence imposed on him by the first appellate court would stand automatically restored. In other words, the conviction and fine amount imposed on the revision petitioner/accused are sustained. The sentence of imprisonment alone is reduced to the period already undergone.

4.With this modification, this criminal revision case is partly allowed.

Sd/-
Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar



To

- 1.The Additional District and Sessions Judge (FTC), Pudukkottai.
- 2.The Judicial Magistrate, Pudukkottai.
- 3.The Inspector of Police,
All Women Police Station, Pudukkottai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.D.RAMESHKUMAR, Advocate (SR-70860[F] dated 24/06/2019)

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JM/11.10.2019/3P/6C