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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2019

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C. (MD)Nos.673 and 681 of 2011

Gandhimathi ... Petitioner in Crl.R.C.(MD)No.673 of 2011/
Accused No.2

Surendran ... Petitioner in Crl.R.C.(MD)No.681 of 2011/
Accused No.1

Vs.

Tamilselvi ... Respondent in both Crl.R.Cs.

Common Prayer: Criminal Revision Cases are filed under Section 397 r/w. 401 of Cr.P.C, to set aside the judgment dated 24.05.2011 made in C.A.Nos. 21 and 22 of 2009, respectively, on the file of the learned Additional District and Sessions Judge, Trichirappalli, (Fast Track Court No-II), modifying the judgment of conviction passed by the learned Judicial Magistrate, Musiri, dated 15.04.2009 in C.C.No.199 of 2002 and allow this revision.

For Petitioner : Mr.S.Vinayak
(in Crl.R.C.(MD)No.673 of 2011)

For Petitioner : Mr.A.Joel Paul Antony
(in Crl.R.C.(MD)No.681 of 2011)

For Respondent : Mr.T.Vadivelan
(in both Crl.R.Cs.)

C O M M O N O R D E R

Tamilselvi filed C.C.No.199 of 2002, on the file of the learned Judicial Magistrate, Musiri against the revision petitioners herein and another person for the offence under Sections 498(A) and 494 of I.P.C. The marriage between Surendran and Tamilselvi was solemnized on 01.11.1996 as per hindu rites and customs. Two children namely., Vignesh and Anitha were born. According to Tamilselvi, she was subjected to cruelty and Surendran contracted marriage with Gandhimathi. The specific allegation of the complainant is that on 17.04.2002, Surendran married Gandhimathi at Samaiyapuram temple. The accused denied the charges framed against them.

2.Tamilselvi examined herself as P.W.1. Ex.P.1 to
Ex.P.3 were marked. On the side of the accused no evidence was
adduced.

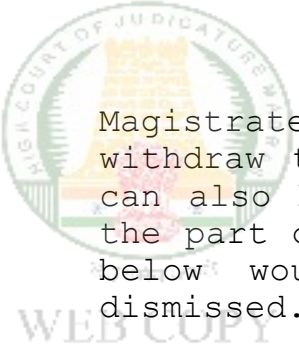


3.The learned Trial Judge by judgment dated 15.04.2009 held that A1/Surendran was guilty of the offence under Section 494 of I.P.C. and sentenced him to one year rigorous imprisonment and also levied fine of Rs.100/- and A2/Gandhimathi was found guilty of the offence under Section 494 r/w 109 of I.P.C. and sentenced to one year rigorous imprisonment and levied with fine of Rs.100/-. A3/Balamani was acquitted. Challenging the said judgment of conviction and sentence dated 15.04.2009, A1/Surendran filed C.A.No.22 of 2009 and A2/Gandhimathi filed C.A.No.21 of 2009, before the learned Additional District and Sessions Court, Fast Track Court No.II, Trichy. Both the appeals were heard together and by judgment dated 24.05.2011, the Appellate Court set aside the sentence of imprisonment imposed on the accused and instead directed them to pay a sum of Rs.1,00,000/- each. In the event of failure on the part of the accused to deposit the compensation amount, they were to undergo the sentence as imposed by the Trial Court. Aggrieved by the same, these criminal revision cases are filed.

4.The learned counsels appearing for the revision petitioners submitted that they would not challenge the finding of conviction and that they would be satisfied if some reduction in the quantum of compensation is shown.

5.I am of the view that Gandhimathi, who is the revision petitioner in CrI.R.C.(MD)No.673 of 2011, deserves some indulgence. Therefore the compensation amount of Rs.1,00,000/- directed to be deposited by her is modified to Rs.50,000/-. Gandhimathi is directed to deposit a sum of Rs.50,000/- to the credit of C.C.No.199 of 2002, on the file of the learned judicial Magistrate, Musiri, within a period of 10 weeks from the date of receipt of a copy of this order. In the event of failing to do so as undertaken before this Court, the impugned judgment of the Appellate Court will stand automatically restored. CrI.R.C.(MD)No.673 of 2011 is disposed of accordingly.

6.Even though, the learned counsel appearing for Surendran/petitioner in CrI.R.C.(MD)No.681 of 2011 submitted that he is a coolie and he cannot afford to pay a sum of Rs.1,00,000/-. I am of the view that no indulgence can be shown. Admittedly, Tamilselvi was married to him. Admittedly, two children were born. For more than 17 years Surendran has not taken care of his wife or his children. Tamilselvi has not filed any maintenance case. Even if Rs.3,000/- was monthly maintenance for Tamilselvi and his two children, the arrears would have come to a huge figure. Therefore, this Court is of the view that the amount of compensation fixed by the Court below is too nominal and no case has been made out for interference. Surendran is however given five months time to comply with the direction passed by the Court below. Surendran shall deposit a sum of Rs.1,00,000/- to the credit of C.C.No.199 of 2002, on the file of the learned judicial



Magistrate, Musiri. Upon such deposit, Tamilselvi is entitled to withdraw the same. Likewise, the amount deposited by Gandhimathi can also be withdrawn by Tamilselvi. In the event of failure on the part of Surendran to do so, the judgments passed by the Courts below would stand restored. CrI.R.C.(MD)No.681 of 2011 is dismissed.

Sd/-

Assistant Registrar(CS-III)

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Sub Assistant Registrar(CS)

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To:

1.The Additional District and Sessions Judge,
Fast Track Court No-II,
Trichirappalli.

2.The Judicial Magistrate, Musiri.

+1CC TO MR.A.JOEL PAUL ANTONY, Advocate Sr. No.72849

+1CC TO MR.T.VADIVELAN, Advocate Sr. No.72396

CrI.R.C. (MD)Nos.673 and 681 of 2011
28.06.2019

SGS(CO)

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