

BAIL SLIP

The Petitioner/Accused namely 1.Sethupathi Ramalingam, S/o.Rajappa Gounder was directed to be released on bail as per the order of this Court dated 20.12.2010 in M.P.No. 1 of 2020 in CrI.RC.No. 1264 of 2010 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.03.2020
PRONOUNCED ON : 08.06.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.1264 of 2010 and CrI.M.P.No.1 of 2011
and
CrI.A.No.192 of 2012

CrI.R.C.No.1264 of 2010

Sethupathi Ramalingam ... Petitioner/Appellant

Vs.

State rep. by the Inspector of Police,
All Women Police Station,
Sooramangalam. ... Respondent/Respondent

CrI.A.No.192 of 2012

State:

The Inspector of Police,
A.W.P.S Sooramangalam,
Salem District.

[Crime No.22 of 2003] ... Appellant

Vs.

1.Sethupathy Ramalingam

2.Jothy ... Respondents

3.Meenachi Anuradha

4.Parameswaran

(Not pressed affidavit filed by M.Jayam, Inspector of Police, AWPS, Sooramangalam, Memo filed by P.P.on 08/02/2012 delay petition in r/o R3 and R4 dismissed as not pressed MP.1/2010 dated 10.02.2012.

PRAYER in Crl.R.C.No.1264 of 2010: Criminal Revision is filed under Section 397 r/w 401 of the Code of Criminal Procedure, against the conviction and sentence imposed by the learned Additional District & Sessions Judge, Fast Track Court No.2, Salem in C.A.No.111 of 2010 on 26.11.2010, modifying the judgment of the learned Judicial Magistrate No.4, Salem in C.C.No.98 of 2010 dated 22.06.2010, confirming the conviction under Section 498(A) IPC and sentencing him to undergo 3 years RI and to pay a fine of Rs.5,000/- in default to undergo 3 months SI and setting aside the other charges under Section 406 IPC and Section 354 IPC read with Section 3 and 4 of the Tamil Nadu Prohibition of Harassment of Women Act.

PRAYER in Crl.A.No.192 of 2012 of 2010: Criminal Appeal is filed under Section 378 of the Code of Criminal Procedure, to allow this appeal and set aside the judgment of acquittal of the respondent/accused [A1 and A2] insofar as the charges under Section 4 of Dowry Prohibition Act, 498(A), 406 IPC and Section 3 and 4 of the Tamil Nadu Women Harassment Act are concerned, passed by the Judicial Magistrate Court No.IV, Salem in C.C.No.98 of 2010, dated 22.06.2020.

Crl.R.C.No.1264 of 2010

For Petitioner : Mr.V.Gopinath, Senior Counsel for
Mr.L.Mahendran

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

Crl.A.No.192 of 2012

For Appellant : Mr.S.Karthikeyan,
Additional Public Prosecutor

For Respondents: Mr.V.Gopinath, Senior Counsel for
Mr.L.Mahendran

सत्यमेव जयते

COMMON JUDGMENT

The complainant/state preferred Crl.A.No.192 of 2012 against the judgment of acquittal in C.C.No.98 of 2010 rendered by the learned Judicial Magistrate No.IV, Salem, dated 22.06.2010.

2.A1 preferred a revision in Crl.R.C.No.1264 of 2010 against the conviction and sentence confirmed by the learned Additional District & Sessions Judge, Fast Track Court No.II, Salem in C.A.No.111 of 2010 on 26.11.2010, modifying the

judgment of the learned Judicial Magistrate No.IV, Salem in C.C.No.98 of 2020 dated 22.06.2010, confirming the conviction under Section 498A IPC and sentencing the petitioner/A1 to undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo three months simple imprisonment.

3.The trial Court found A1 guilty for offence under Section 498(A), 406, 354 of IPC r/w 3 & 4 of the Tamil Nadu Prohibition of Women Harassment Act and sentenced him to undergo rigorous imprisonment for three years and to pay a fine of Rs.5,000/- in default, to undergo simple imprisonment for three months for offence under Section 498(A) IPC and sentenced to undergo rigorous imprisonment for three years under Section 406 IPC and sentenced to undergo rigorous imprisonment for two years under Section 354 r/w 3 and 4 of the Tamil Nadu Prohibition of Women Harassment Act. Against which A1 preferred appeal before the lower Appellate Court/the learned Additional District & Sessions Judge, Salem in C.A.No.111 of 2010. The learned Additional District & Sessions Judge by Judgment dated 26.11.2010, modified the judgment of trial Court by acquitting A1 from offence under Section 406, 354 IPC r/w Section 3 and 4 of the Tamil Nadu Prohibition of Women Harassment Act and confirmed the sentence passed by the trial Court for offence under Section 498(A) of IPC, against which the petitioner/A1 preferred a revision in CrI.R.C.No.1264 of 2010 before this Court.

4.The trial Court found A1 not guilty for offence under Section 4 of the Dowry Prohibition Act and A2 to A4 for offence under Sections 498(A), 406 IPC and Section 3 & 4 of the Tamil Nadu Prohibition of Women Harassment Act and acquitted them from the above charges. Against which the appeal was preferred by the State in C.A.No.192 of 2012.

5.Since the issues involved in both cases are outcome of a common judgment, both the cases are taken up together for final disposal. For the sake of clarity, the accused are referred, according to their ranks, as mentioned in the charge.

6.(i)The case of the prosecution is that there are totally five accused. A5 is the husband of PW1. A1 and A2 are the parents of A5 and A3 and A4 are the sister and brother-in-law of A5. The marriage between Sangeetha/PW1 and Rajavel/5th accused took place on 04.04.2002. The case against the 5th accused Rajavel got split up since NBW was pending against him for several years. At the time of marriage, the parents of Rajavel/A1 and A2, demanded dowry of Rs.2 lakhs, 100 sovereign of gold and Ambassador car. The parents of PW1 gave dowry of Rs.2 lakhs, 100 sovereign gold and some gold jewels weighing about 10 sovereign to the groom and further demand of Ambassador

car to be fulfilled after the marriage. A3 and A4 are the sister and brother-in-law of Rajavel, Doctors, carrying on medical profession at Erode.

(ii)After the marriage, Rajavel, husband of PW1 left to America on 10.04.2002 informing that he would call PW1 to America after arranging Visa for her. In the meanwhile PW1 stayed in the house of A1, joined M.Sc.Information Technology in Periyar University. A2 was staying in Coimbatore, visiting her husband A1 at Salem once in a month. A1 and PW1 were living at Jahir Raddipatty, Salem. During that period, A1 started misbehaving with PW1 and on one occasion during September 2002 he called PW1 to his bedroom and attempted to embrace her with an intention to outrage PW1's modesty. PW1 refused and escaped from A1. On her refusal, A1 criminally intimidated PW1 with life and informed PW1 that if she revealed the happenings to anyone, she and her family would be done away. A1 called A2 over phone. A2 came to Salem and beat PW1, demanding Ambassador Car from PW1's father and subjected PW1 to cruelty and ill treated her in the house of A1. PW1 was never allowed to meet her family or any of her relatives and was confined in a room. A3 and A4 took PW1 to Erode, prescribed some medicine to PW1, due to which, she became very weak. A1 and A2 informed their son Rajavel Sethupathy that PW1 has become a lunatic and was taking treatment at her parents house.

(iii)Thereafter A1 and A2 called PW1 over phone and demanded further dowry of Rs.2 lakhs and a car. Further informed that only if the demand was met, PW1 would be allowed to live with her husband. When PW1 was staying in a Hostel at Chennai, pursuing her studies, A1 contacted PW1 in her hostel, compelled her to come and stay with him. PW1 came to the house of A1, enquired about her husband Rajavel, A1 attempted to embrace her and outrage her modesty. A2 criminally misappropriated jewels of PW1. Hence, PW1 lodged a complaint [Ex.P1] to the All Women Police Station, Krishnagiri and thereafter, the complaint was transferred to the file of All Women Police Station, Sooramangalam and a case was registered in Crime No.22 of 2003 [Ex.P18]. On completion of investigation by examining the witnesses and collecting the documents, charge sheet came to be filed before the learned Judicial Magistrate No.IV, Salem and taken on file as C.C.No.98 of 2010.

7.During trial, the prosecution examined 28 witnesses and marked 25 documents and on the side of the defence one witness was examined and 11 documents were marked.

8.The submission of the learned senior counsel for the petitioner/A1 in CrI.R.C.No.1264 of 2010 and respondents in C.A.No.192 of 2012 is as follows:-

(i) The learned counsel for the petitioner/A1 submitted that the lower appellate Court finding there is no evidence to show that the petitioner/A1 misappropriated the jewels of PW1 and acquitted him from the charges under Section 406 IPC. The lower appellate Court erred in confirming the conviction of the petitioner/A1 under Section 498(A) IPC. The lower appellate Court held the petitioner/A1 not guilty of charges for offence under Sections 356 IPC r/w 3 and 4 of the Tamil Nadu Prohibition of Women Harassment Act, 1988 and acquitted the petitioner. The Courts below failed to look into the fact the admission of PW1 that the petitioner/A1 and her husband/A5 were taking steps to get visa for her to go to USA. Obtaining visa is not within the powers of the petitioner/A1. The petitioner/A1 brought enough materials to show that he was taking all steps to get visa and send PW1 to USA. PW1 also admitted that she wanted to go to USA and live with her husband/A5. In the meanwhile, PW1 applied for student visa and form was sent to her and she filled up and submitted the same, but she could not get visa. PW1, further, admitted that before leaving to USA, her husband/A5 trained her how to answer during the interview at the Embassy or Consulate for getting visa.

(ii) The learned senior counsel further submitted that PW1 and PW2 took steps, immediately, for obtaining visa for PW1, after her husband/A5, left to USA. PW1 failed to write GRE or TOFEL exams and she did not qualify to get visa and that is the reason the visa could not be obtained for her and she could not join her husband in USA, for which the petitioner/A1 could not be found fault with. The Investigating Officer/PW28 admitted that PW1 appeared before US Embassy for getting visa and she was denied the same. Strangely, PW28, did not make any enquiry with US consulate to find out the reason for refusal of visa to PW1, failed to, collect any material, in this regard. In Ex.D10, PW1 referred petitioner/A1 as father, in which she elaborated about the project work and requested the petitioner/A1 to pay fee for her. Such was the relationship between PW1 and the petitioner/A1, hence by no stretch of imagination, it could be said that the petitioner/A1, subjected PW1 to cruelty in any manner.

(iii) The learned senior counsel for the petitioner further submitted that the lower appellate Court's finding is that A1 is not guilty for all other offences, except 498(A) IPC. The trial Court acquitted A2 to A4 from all the charges. On the similar set of facts, the petitioner/A1 could not be convicted. Further, the petitioner/A1's son Rajavel Sethupathy while leaving to America on 10.04.2002, stated that he would make arrangement for PW1's visa. PW1 pursued her education in this regard. The petitioner/A1 facilitated her to join in educational institutions and made arrangements for her stay in Chennai.

Despite best efforts, PW1 could not get admission in USA and hence, she could not get visa and join her husband/A5, for which the petitioner is not the reason. The other allegations made by PW1 is that the petitioner/A1 made physical advances, demanded dowry and outraged her modesty. The petitioner/A1 proved the allegations as false by producing Exs.D1 to D11 and by cross examination of witnesses. The lower appellate Court disbelieved the evidence of prosecution witnesses in this regard. On the same set of facts, the petitioner/A1 cannot be convicted for offence under Section 498(A) IPC.

(iv) Exs.D1 to D9 are the letters written by PW1 to her husband/A5. The said letters were written when she was staying with A2 at Coimbatore, while staying with A3 and A4 in Erode and one letter was written by her when she was staying with the petitioner/A1. In None of the letters/Exs.D1 to D9, she has made any allegations as stated in the complaint [Ex.P1] and in her evidence. Ex.D10 is the letter, addressed by PW1 to A1, addressing him as father. Ex.D11 is the letter of PW2, the brother of PW1, addressed to A5/Rajavel Sethupathy. In that letter also, there are no allegations which are now projected. In all the letters, PW1 has stated only about her plans to go to USA and no allegation and averment was made against the petitioner. The failure of PW1, to obtain visa and join her husband/A5 had forced her to make false allegation against the petitioner/A1. Hence, prayed for acquittal of the petitioner/A1 from the charges under Section 498(A) of IPC. The learned senior counsel further submitted that the trial Court as well as the lower appellate Court by a well reasoned Judgment on proper analysis of both oral and documentary evidence, had acquitted A1 and A2 from all the charges except for offence under Section 498 (A) IPC against A1 alone. In view of the above submissions and material available, the appeal filed by the State has to be dismissed.

9.The submission of the learned Additional Public Prosecutor for the appellant/State in C.A.No.192 of 2012 and for respondent in CrI.R.C.No.1264 of 2014 are as follows:-

(i) The learned Additional Public Prosecutor/State submitted that A1, A2, A3 and A4 are the father-in-law, mother-in-law, sister-in-law and brother-in-law of PW1. A4 is the husband of A3. PW1 is the defacto complainant, filed a complaint [Ex.P1] stating that the marriage between PW1 and A5/Rajavel Sethupathy, had taken place on 04.04.2020 at Nanchundeswaran Temple at Nanjankodu, Mysore. In this case, the husband of PW1, Rajavel Sethupathy was initially arrayed as A5 along with other accused. During the marriage, there was a dowry demand of 100 sovereigns of gold, Rs.2,00,000/- in cash and Ambassador Car. The demand of jewels and cash were given on 03.04.2002 and the demand for Ambassador car, was to be met, later as promised by the parents

of PW1. A1, who was the then Vice-Chancellor of Periyar University, Salem, was searching for bride for his son/A5, who is a green card holder in US and shortly to get US citizenship, which was informed to PW10 and PW21, who informed PW14 and with the help of PW14 and PW15 and others, the marriage proposal was put forth to the parents of PW1.

(ii) The learned Additional Public Prosecutor further submitted that during the later part of 2003, A5 came to India and met PW1. After the meeting, the marriage was arranged. PW1 and her family members were initially reluctant for marriage proposal, since the defacto complainant belonged to Agricultural family and the family of the accused were well placed. A1 dispelled the apprehension and promised that the visa for PW1 would be obtained within ten days after the marriage and she would join her husband in USA. Believing the same, the marriage was performed on 04.04.2002. Thereafter they stayed in Salem for two days. On 07.04.2002 they reached Chennai and stayed at New Woodlands Hotel. On 10.04.2002, the husband of PW1 left to USA. Thereafter PW1 completed her studies at Hosur PW1 was staying with A1 at Salem, PW1 was made to join various courses in Salem and Chennai. In the meanwhile, PW1 was given treatment by A3 to increase her weight as per the wish of her husband/A5. The medicines prescribed by A3, was for nervous breakdown, which affected her health badly. Thereafter, PW1 joined her parents and took treatment from Kaveripattinam Doctor/PW13, then from PW22 Doctor at Krishnagiri, who referred PW1 to PW9, a Doctor at Salem, thereafter, she took treatment with PW26 at "NIMHNS", Bangalore. Ex.P2 to Ex.P8 are the prescriptions and medical reports. PW1 became weak and suffered bad health due to wrong diagnosis. In the meanwhile, PW10, PW14 and PW15, took steps for reconciliation of the disputes between PW1 and her in-laws. During the meeting, A1 promised that his son would come back and take PW1 within a stipulated time and he would make all arrangements for the same. Contrary to the undertaking and promise, A1 failed to take any steps as promised by him. Though PW1's estranged husband came to India, he failed to meet PW1 and made any arrangement for taking PW1 to USA. Even the other family members, A2 to A4, failed to take any steps in PW1 joining with her husband. In the meanwhile, the husband of PW1, filed a divorce case in USA and obtained an exparte order.

(iii) The learned Additional Public Prosecutor submitted after persuasion and exerting pressure, the marriage held on 04.04.2002 was registered only on 04.12.2013, which is marked as Ex.P12. The registration of the marriage was done only on the direction of this Court, during anticipatory bail proceedings. Whenever PW1 and her family members questioned the reason for delay in PW1 joining with her husband, A1 to A4 would demand dowry of Rs.2,00,000/- and ambassador car. When PW1 was at

Salem alone with A1, A1 made advancement. Finally, unable to withstand the same, she left the house of A1. Since A1 was then Vice-Chancellor and was in an elated position in the society, the complaint of PW1 was not immediately received and acted upon. Thereafter, PW1 gave a complaint through the Legal Services Authority when the Hon'ble Chief Justice of Madras High Court had come to Krishnagiri to open new Court complex. PW1 was advised to give a complaint to the Superintendent of Police, Dharmapuri and thereafter, the complaint was registered by PW27, the Sub Inspector of Police, All Women Police Station, Krishnagiri, which later got transferred to the file of Inspector of Police, All Women Police Station, Sooramangalam, Salem.

(iv) PW28, the Investigating Officer conducted investigation, examined the witnesses, collected the documents and filed the charge sheet against the accused. The trial Court on analysis of witnesses and documents let-in by the prosecution, convicted A1 for offence under Sections 498(A), 406, 354 of IPC r/w 3 & 4 of the Tamil Nadu Prohibition of Women Harassment Act and acquitted A1 from the charges under Section 4 of the Dowry Prohibition Act and A2 to A4 were acquitted from all the charges. Aggrieved over the same, the prosecution preferred an appeal in C.A.No.192 of 2012. Though the appeal was filed against A1 to A4, the prosecution filed a memo to withdraw the appeal as regards A3 and A4.

(v) The trial Court on a wrong premise, had acquitted A1 and A2 of the charges stating that except for PW1 to PW4 who are all from the same family, and no other witnesses have deposed against them. The trial Court, failed to look into the fact that PW10, PW14, PW15 and PW21, who attended the marriage, are independent witnesses, have spoken about A1's demand of dowry as well subjecting PW1 to cruelty. PW24, a retired VAO had spoken about the demand of dowry. Thus, the trial Court, placing heavy reliance on Exs.D1 to D9 giving reason that there is no mention about any demand of dowry, acquitted A1 and A2 from the charges of demand of dowry is not proper. The other reason is that since A2 was living in Coimbatore separately and used to visit Salem on occasions, A3 and A4 were living in Erode, A2 to A4 were acquitted from all the charges. The lower Court observing that the accused hail from respected family with elated position in the society. Hence there could be no demand of dowry and the other offences consequent to it are not made out, is not proper, contrary to the evidence and materials available. Hence, the prosecution preferred appeal against acquittal of A1 and A2.

10.This Court considered the rival submissions and perused the materials placed.

11.The trial Court as well as the lower appellate Court,

had given a well reasoned judgments, wherein the evidence of the witnesses and documents have been analyzed in detail. PW1 is the defacto complainant, PW2 her brother, PW3 and PW4 are the father and mother of PW1. PW1 to PW4 stated about the accused family visit, during latter part of 2001, for marriage proposal of PW1 with A5 Rajavel Sethupathy, the marriage was fixed to be held on 04.04.2002. Since it was a second marriage for their son, the accused family wanted to conduct the marriage in low profile, the bridegroom was holding US green card and likely to get US citizenship shortly and at that time printing marriage invitation would be an obstacle for him, in getting US Citizenship. Hence, successfully avoided printing of marriage invitation and only close relatives were called for the marriage, which was held at Nanchundeswaran Temple at Nanjankodu, Mysore. On 03.04.2002 the dowry demand of jewels and cash of Rs.2,00,000/- was handed over in presence of witnesses. The other demand for ambassador car was to be given after the marriage. After the marriage, for two days they were staying in Salem and thereafter, for two days in Chennai. On 10.04.2002, the bridegroom left to USA. A1, then Vice-Chancellor, having stature and contacts, promised that PW1 would be sent to US within a short period after the marriage to join her husband nothing was to be doubted them. Thereafter, the colour of A1 changed. Instead of making arrangement for PW1 to join her husband as dependant wife, A1 forced her to join M.Sc., Information Technology and do some projects and wanted PW1 to go on a student visa and join her husband. This was nothing but a ploy adopted to deny her entry to US by all means. Knowing well the education and social background of PW1 and it was impossible for PW1 to get visa and admission as student.

12.It is a known fact that PW1's family is a Agricultural family, though the daughter of PW3 and PW4, are educated, they are not worldly wise to know the complicity in obtaining US visa. A1 dispelled the reservation and hesitation of PW1's family contracting marriage for his son A5 who is settled in US. Only on the promise and assurance of A1 & A5 marriage was performed PW1 marriage life lasted for five days only from 04.04.2002 to 10.04.2020. The victim/PW1 has been ravished and thereafter she had been left in lurch. The letters/Exs.D1 to D9, would reveal the longing of PW1 both mentally and physically to join her husband in US. A1 and his son/A5 by their conduct traumatized PW1 caused cruelty. A1 being a Vice-Chancellor, during marriage promised PW1 would be sent to US immediately after marriage gave an undertaking before the panchayat to make arrangement to join PW1 with his son. A1 failed to fulfill the promise and did not take any steps to send PW1 to US. On the other hand his son had obtained an exparte divorce order. The private letters of PW1 are now attempted to be used against PW1 by A1. The lower appellate Court in its Judgment at paragraph Nos.29 and 35 had crystalized and narrated the events, given a

well reasoned finding. For clarity, the same is extracted below:-

"29.It is seen from the evidence of PW1 that after the marriage was over she attended an interview for getting visa and could not get selected. She stated that since she had not passed GRE & TOFEL Examination, she could not get the student visa. The appellant/1st accused undertook to get the 5th accused from U.S.A when a panchayat was held in 2003. But he could not honour his words. When the case was pending before the Hon'ble High Court for anticipatory bail proceedings she was lured to give statement in support of the accused and after getting favourable orders in the bail plea, the appellant / 1st accused failed to send her to U.S.A to join with her husband. PW10 stated about the appellant/1st accused admitting in the panchayat that he would get his son, the 5th accused from America and that PW1 would be sent to America along with her husband. It is seen from the evidence of PW1 to PW4 and the case of the prosecution that PW1 was given in marriage to the 5th accused on the promise that she would be sent to America to join with 5th accused immediately after the marriage. However it seems that the accused, especially appellant / 1st accused and the 5th accused have not taken fruitful and effective steps to get visa to PW1 to facilitate her joining with her husband, the 5th accused in U.S.A. There is no explanation from the 1st accused/appellant as to why he has not taken effective and fruitful steps to get visa to PW1 to go to America. It is not known why PW1 had to write GRE and TOFEL examination for her joining with her husband. PW1 was given in marriage to 5th accused for leading a life of a house wife. Neither PW1 nor the parents of the PW1 contemplated PW1 study M.Sc. (IT) Course before going to America. It seems only on the instructions of the 5th accused and on the insistence of the appellant/1st accused, PW1 had joined M.Sc (IT) course though she was always willing to join with her husband as early as possible. Again it is necessary to refer the relevant portions from her letters Ex.D1 to D9.....

35.Thus it is clear from these letters that PW.1 was longing for love and proximity of her husband rather than pursuing her studies. It seems that she was forced to continue the study only at the instructions of the 5th accused. What is the problem in getting the visa to a housewife to go to America and join with her husband The first accused/appellant is bound to explain

this, in the facts and circumstances of this case. He has not chosen to do that. Simply getting answer from the the mouth of PW.1 that she did not get through the interview and she did not clear GRE and TOFEL test are not enough. If there is a problem in getting visa to PW1 as a house wife of the 5th accused, that must have been made known to the P.W.1 and her parents even before the marriage. That was not done. The promise given by the accused that P.W.1 would be sent to America within 10 days after the marriage to join her husband, the 5th accused was not honoured by the appellant/first accused. This drove P.W.1 to loose her mental equilibrium for some time and she had to undergo treatment as seen from EX. P.2 to P.8 and the evidence of P.w.9, 13 ,22 and 26. Though there is discrepancy in the evidence of prosecution as to the date on which Ex.P.2 to Ex.P.8 were seized, the fact remains that P.W.1 had to undergo severe mental stress and strain due to the failure on the part of the first accused / appellant and the 5th accused to get her to U.S.A. The failure of the appellant/first accused in getting visa to P.W.1 to go to USA, considering the high position he was occupying at the relevant time cannot be appreciated .His conduct amounts to a wilful conduct which resulted in causing mental and physical harm to P.W.1 as defined u/s 498-A IPC. Therefore this Court finds that the appellant/first accused had committed wilful conduct of not taking effective steps to get visa to P.W.1 to facilitate her departure to USA to join with her husband and failed to summon his son, the 5 accused from USA to comfort P.W.1, which resulted in P.W.1 loosing her mental and physical health. This wilful conduct-of the appellant/1 accused amounts to cruelty as defined under section 498-A IPC and he is liable to be punished for committing an offence punishable u/s 498-A IPC. Therefore, the conviction of the appellant/first accused under section 498-A IPC and the sentence of rigorous imprisonment of three years and to pay a fine of Rs.5000/- in default simple imprisonment for 3 months thereunder passed by the learned trial judge is confirmed. These points are answered as above."

13.The selection of bride was not one day affair. The family of bridegroom had visited the bride place, aware of the social background of PW1's family, her education and other factors, believing the promise of A1 to send PW1 to US within ten days, the petitioner a Vice Chancellor of stature. There was no reason for the family members of PW1 to doubt such promise and undertaking. Thereafter only the marriage was

agreed and conducted. A1 being a Vice-Chancellor, he knows the procedure of getting US visa. Admittedly, A5 is a green card holder and shortly, he was to get US citizenship, nothing stopped them from obtaining dependent visa for PW1 declaring her as A5's wife. There is no evidence to show that A1 to A5 took any steps in this regard. The marriage took place on 04.04.2002 at Nanchundeswaran Temple at Nanjankodu, Mysore. This marriage came to be registered only on 04.12.2013 on the orders of this Court while the accused applied for anticipatory bail. The accused gave undertaking before this Court that they are agreeable for mediation and all possible steps would be taken by the accused in joining PW1 with A5, but the same remained only in words.

14. During the pendency of the revision, this Court referred the matter again for mediation then too, mediation failed. A1 conveniently now states that it is A5 who has to take steps for taking PW1 back to marriage life. Due to long pendency of NBW, the case against A5 was split up from this case. The petitioner/A1 submitted that he has no contact or connection in any manner with his son/A5 and he is in helpless situation, which cannot be countenanced for the simple reason that Exs.D1 to D9 are the letters between PW1 and son of A1 and Ex.D11 is a letter of PW2 to son of A1. All the letters have been addressed to USA address, which is not denied. The letters are not in public domain, they are private letters addressed to petitioner's son. These letters had come into the hands of petitioner which was used during trial to put forth the defence case as defence exhibits, relied on its contents heavily. Such being the case, the contention of the petitioner/A1 that he is not aware of his son's whereabouts and have no influence on his son's matrimonial life, is unacceptable. The act of the petitioner/A1 would clearly attract the offence under Section 498(A) for better appreciation, the same is extracted below:-

"498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purpose of this section, "cruelty" means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or

valuable security or is on account of failure by her or any person related to her to meet such demand."

15.Thus, Section 498(A) encompass cruelty both mental and physical. Thus having regard to circumstance of the case, this Court finds no reason to interfere with the finding of the lower appellate Court, confirming the conviction of the petitioner under Section 498(A) IPC by the trial Court. Hence, the conviction of sentence of the petitioner for offence under Section 498(A) IPC is confirmed. Considering the age of the appellant who is now 80 years of age, this Court is inclined to modify the sentence of imprisonment i.e., from three years to that of one year for offence under Section 498(A) of IPC. With the above modification, this Criminal Revision is partly-allowed. The trial Court is directed to secure A1 to undergo remaining period of sentence.

16.As regards the appeal filed by the prosecution/State, from the above narrations, this Court finds no reason to interfere with the judgment of acquittal of A1 and A2 and appeal deserves dismissal and dismissed accordingly.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

vv2

To

- 1.The Additional District and Sessions Judge,
Fast Track Court, Salem.
- 2.The IV Judge,
Judicial Magistrate Court No.IV,
Salem.
- 3.The Chief Judicial Magistrate,
Salem.
- 4.The Inspector of Police,
A.W.P.S Sooramangalam,
Salem District.

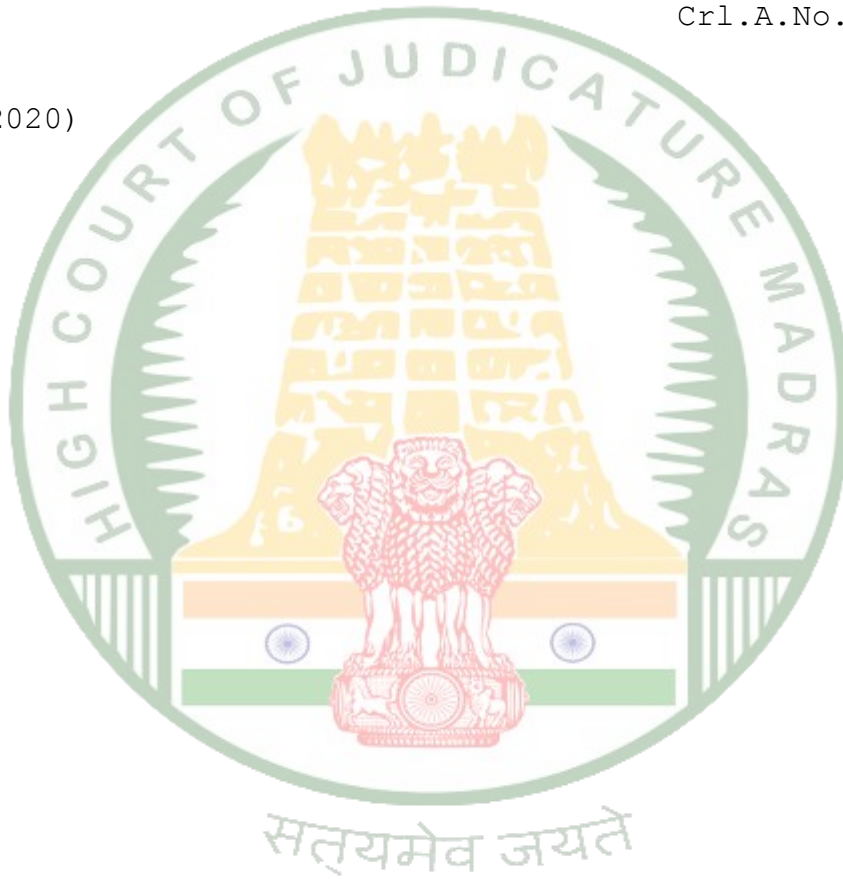
5.The Superintendent of Central Prison,
Salem.

6.The Public Prosecutor,
High Court, Madras.

7. The Section Officer,
Criminal Section Records,
High Court, Madras.

Crl.R.C.No.1264 of 2010
and
Crl.A.No.192 of 2012

BR(CO)
GN(21/10/2020)



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