

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 03.02.2020
CORAM
THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.R.C.No.1371 of 2013

Krishnan

.. Petitioner

Vs

1.Saravanan
2.Paiyappan
3.Chinnapappa
4.State rep. by the
Inspector of Police
Bargur Police Station
Krishnagiri Taluk & District
Cr.No.303/2001

... Respondents

Criminal Revision preferred under Section 397 and 401 Cr.P.C. to set aside the judgment and order dated 16.12.2004 passed by the Assistant Sessions Judge, Krishnagiri in S.C.No.98 of 2003.

For Petitioner : Mr.G.Vigneshwar
for Mr.V.Nicholas

For R1 and R2 : Died
For R3 : M/s.Ram and Ram
For R4 : Mr.R.Suryaprakash
Govt. Advocate (Crl. Side)

O R D E R

This Criminal Revision has been preferred challenging the judgment and order dated 16.12.2004 passed by the Assistant Sessions Judge, Krishnagiri in S.C.No.98 of 2003.

2.For the sake of convenience, the parties will be referred to by their name.

3.The deceased Bhagyajothi got married to Saravanan (A1) on 06.05.2001 and at the time of marriage, the groom's family demanded 30 sovereigns of gold and hero honda motorcycle as dowry. After marriage, Bhagyajothi lived in her matrimonial home with her husband (A1) and parents-in-law, Paiyappan (A2) and Chinnapappa (A3). She committed suicide by jumping into a well on 12.11.2001, pursuant to which, the police registered a

case in crime No.303 of 2001 under Section 174 Cr.P.C. Since the death of Bhagyajyothi was within seven years of marriage, the Executive Magistrate conducted inquest and gave a finding that the suicide of Bhagyajyothi was on account of dowry demand. Hence, the case was altered to one under Section 498-A and 304-B IPC and after completing the investigation, the police filed a final report in P.R.C.No.25 of 2002 before the Judicial Magistrate, Krishnagiri. On committal, the case was taken on file as S.C.No.98 of 2003 by the Special Court and was made over to the Assistant Sessions Court, Krishnagiri, for trial. Charges for the offence under Section 498-A, 304-B IPC and Section 3 and 4 of Dowry Prohibition Act were framed against the accused and when questioned, they pleaded "not guilty".

4.To prove the case, the prosecution examined 14 witnesses and marked 16 exhibits.

5.When the accused were questioned under Section 313 Cr.P.C. on the incriminating circumstances against them, they denied the allegations. No witness was examined from the side of the accused, but four documents were marked as Exs.D1 to D4 in the cross-examination of the prosecution witnesses.

6.After considering the evidence on record and hearing either side, the trial Court, by judgment and order dated 16.12.2004 in S.C.No.98 of 2003 acquitted the accused of the charges. Challenging the acquittal, Krishnan (P.W.2 - father of Bhagyajyothi) has filed the present criminal revision.

7.Heard Mr.G.Vigneshwar, learned counsel representing Mr.V.Nicholas, learned counsel on record for the petitioner and Mr.R.Surya Prakash, learned Government Advocate (Crl. Side) for the respondent State.

8.During the pendency of this criminal revision, it is seen that Saravanan (A1) died on 02.03.2010 and Paiyappan (A2) died on 03.07.2013, as could be seen from the death certificates on record. Now, only Chinnapappa (A3) alone is available. In a revision against acquittal, this Court could be slow in interfering and the order of acquittal can be interfered with, only if it is shown that the trial Court had grossly misappreciated the evidence.

9.Admittedly, Chinnapappa (A3) is the second wife of Paiyappan (A2) and is the stepmother of Saravanan (A1). According to the prosecution, the deceased Bhagyajothi suspected that her husband Saravanan (A1) was having illicit intimacy with his stepmother Chinnapappa (A3). There is absolutely no satisfactory materials on record, for this Court to infer this illicit relationship.

10.As regards the demand of motorcycle, the defence have marked documents to show that the motorcycle was purchased by Saravanan (A1) with 50% of his own funds and had only sought financial help from his father-in-law for the balance amount. There was no demand of dowry as such and whatever was given by the family of Bhagyajothi during marriage, was voluntarily given and they were also returned to them through the police, after the death of Bhagyajothi. It is trite that in an appeal against acquittal, when two views are possible, the view that favours the case of the accused merits acceptance (See Arulvelu and another Vs State and another [(2009)10 SCC 206]).

In the result, this criminal revision is dismissed as being devoid of merits. Registry is directed to transmit the original records if any, to the trial Court forthwith.

Sd/-

Assistant Registrar

// True Copy//

Sub Assistant Registrar

gya

To

1. Assistant Sessions Judge,
Krishnagiri
2. Inspector of Police,
Bargur Police Station,
Krishnagiri Taluk & District.

Copy to: The Deputy Registrar,
Criminal Side,
High Court, Madras.

+1CC to Mr.V.Nicholas, Advocate, SR.No.8330.

CRL.R.C.No.1371 of 2013

KK(CO)

CSR: 02/03/2020