

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

Cr1.R.C.No.773 of 2013

Balasubramaniam

..Petitioner/Accused No.2

Vs.

State by: Inspector of Police,  
All Women Police Station,  
Suramangalam,  
Cr.No.01 of 2007

..Respondent/Complainant

Prayer: Criminal Revision petition has been filed under Section 397 r/w 401 Cr.P.C against the judgment made in criminal appeal No.522 of 2012 dated 28.03.2013 on the file of the II Additional District and Sessions Judge, Salem in confirming the judgment made in C.C.No.193 of 2009 dated 22.02.2012 on the file of the Judicial Magistrate - V, Salem.

For Petitioner : Mr.K.Vijayaragavan

For Respondent : Ms.S.Thankira

Govt. Advocate (Criminal side)

O R D E R

The Revision Petitioner has been convicted under Section 498-A IPC and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for one month by the Judicial Magistrate No.V, Salem in C.C.No.193/2009 by judgment dated 22.02.2012. Impugning the conviction and sentence imposed on him, the revision petitioner preferred the criminal appeal No.22/2012 on the file of the II Additional District and Sessions Court, Salem and the appellate Court, on an appreciation of the materials placed on record, was pleased to confirm the conviction and sentence imposed on the revision petitioner by the trial Court. Challenging the same, the revision petition has been preferred by the petitioner.

2.The Revision petitioner is the second accused in C.C.No.193/2009 on the file of the Judicial Magistrate Court No.V, Salem. The revision petitioner and others were charged under Section 498-A IPC and Section 4 of the Dowry Prohibition Act for demanding dowry and committing cruelty on the defacto-complainant.

3. Briefly stated, according to the complainant's case, the defacto-complainant Karpagam @ Gayathri and A1 Maheshbabu were married on 25.08.2004 at Nagaraja Thirumanan Mandapam, Salem. A2 is the father, A3 is the mother, A4 is the sister and A5 is the brother of A1. It is stated that at the time of marriage, 30 sovereigns of gold jewels, Rs.1,50,000/- worth silver articles, Rs.10,000/- worth marriage Dress, Rs.50,000/- worth house hold articles were given as dowry. However, even on the date of the marriage, the accused subjected the defacto-complainant to cruelty by saying that the dowry provided is insufficient and A1 was provided other girl along with 100 sovereign jewels and cash and accordingly, has been demanding more money and jewels from the parents of the complainant and on that premises, abusing the defacto-complainant that she is a mentally affected person and she will be divorced and also tried to abort the child of the complainant and demanded the complainant to secure AIDs certificate and also demanded her to fetch Rs.2,00,000/- as dowry and continuously using filthy language against her and thus, had committed the offences punishable under Sections 498-A and 4 of Dowry Prohibition Act.

4. To sustain the prosecution case, PWs 1 to 8 were examined and Ex.P1 to 6 were marked. No MO has been marked. On the conclusion of the prosecution evidence, the accused were examined under Section 313 Cr.P.C and questioned with reference to the incriminating evidence tendered against them by the prosecution witnesses and the accused had denied the same. According to the accused, they had not committed the offences put forth against them. On the side of the accused, no oral and documentary evidence has been adduced. No MO has been marked.

5. On an appreciation of the materials available on record, the trial Court was pleased to acquit the accused of the offences under Section 4 of the Dowry Prohibition Act and also acquitted A1, A3 to A5 of the offence under Section 498-A IPC, however, proceeded to convict the second accused viz., the revision petitioner alone under Section 498-A IPC and sentenced him as aforestated and the same had also been confirmed by the appellate Court. Impugning the same, the revision petition has been laid.

6. Firstly, it is put forth by the accused counsel that the learned Judicial Magistrate Court No.V, Salem, has no jurisdiction to entertain the case put forth by the complainant. The abovesaid argument proceeds on the footing that the alleged cruelty meted out to the complainant has been stated to have taken place only at Nellore and Chennai as spoken to by the witnesses and therefore, according to him, the Court at Salem would not have the jurisdiction to entertain the complainant's case. However, considering the materials placed on record, when it is found that the marriage between the defacto-complainant and the first accused had taken place at Salem and from the inception of the marriage, the accused in particular the

revision petitioner had been inflicting cruelty upon the defacto-complainant mentally by directing to fetch more dowry and also abusing her one way or the other, in such view of the matter, when the cruelty caused by the accused persons had commenced from the date of the marriage at Salem itself, in such view of the matter, the Courts below had rightly held that the Judicial Magistrate Court No.V, Salem had the jurisdiction to entertain the complainant's case. I do not find any reason to interfere with the abovesaid determination of the Courts below.

7.Secondly, it is put forth by the petitioner's counsel that inasmuch as all the accused persons had been acquitted of the charge under Section 498-A IPC, the revision petitioner should not have been convicted under Section 498-A IPC singularly. However, for sustaining the conviction of the revision petitioner under Section 498-A IPC, it is found that the Courts below had placed reliance upon the evidence of the defacto-complainant as well as the letters marked as Exs.P2 & P3, which are found to have been written by the defacto-complainant to her parents during 2005 and according to the accused, those letters are written in white papers and therefore, they could have been created at any point of time. However, considering the position that the letters had been sent by the defacto-complainant to her mother from Chennai during 2005 itself and considering the seal available thereon, when they are found to have been sent during 2005 as mentioned in the said letters and therefore, the argument that those letters had been created for the purpose of the case, as such, cannot be accepted in any manner.

8.On a reading of the contents of the letters marked as Exs.P2 & P3, it is found that the defacto-complainant had been cruelty treated and the revision petitioner in particular had used unparliamentary words against her and thereby, ill-treated her and affected her mentally and when considering the nature of the language used for chiding and abusing the defacto-complainant by the revision petitioner as noted in the impugned judgment of the Courts below, it is found that they are so serious and not to be disclosed in the open as such, however, considering the abusing words used by the revision petitioner against the defacto-complaint as detailed in the impugned judgment, as held by the Courts below, the same are more than sufficient for ruling that the revision petitioner by his acts and words had inflicted and caused mental agony and torture to the defacto-complainant and particularly, when the defacto-complainant is residing in her in-laws house and away from her parents house and she would be expecting only love and affection from her in-laws and on the other hand, when the revision petitioner has heaped abusive and cruel words against her, caused her mental torture and when it is further noted that the revision petitioner had gone to the extent of stopping the marriage for not providing a silver plate and in such view of the matter, considering the evidence adduced by the defacto-complaint and her relatives and in respect of the matrimonial

disputes, normally the affected person and the relatives would alone come forward to tender evidence and the neighbours would not come forward and not be competent to speak about the happenings in the matrimonial home and further, when the evidence of the prosecution witnesses inspire confidence and acceptability in toto, particularly, as against the revision petitioner and though there may be some delay in lodging the complaint, however, as held by the Courts below, the elders of the family would endeavour only to stop the break-up of the marriage by making rapprochement by seeking to effect conciliation between the rival parties one way or the other, in such view of the matter, as they would only resort to lodge the police complaint finally, in view of the same, the delay in the lodging of the complaint would not in any manner undermine the complainant case.

9. In the light of the abovesaid factors, considering the abovesaid case in toto, when the Courts below have properly appreciated the materials placed on record in the right perspective and noted that the revision petitioner has caused mental cruelty and agony to the defacto-complainant, accordingly, rightly determined that the revision petitioner has committed the offence punishable under Section 498-A IPC and the sentence imposed on the revision petitioner is also found to be not excessive. In the light of the abovesaid factors, the contention of the accused counsel that the prosecution has failed to establish the offence under Section 498-A IPC against the revision petitioner, as such, cannot be countenanced.

10. In the light of the abovesaid discussions, I do not find any valid reason warranting any interference in the determination of the Courts below convicting and sentencing the revision petitioner under Section 498-A IPC and resultantly the criminal revision fails and is accordingly dismissed. The trial court is directed to secure the presence of the accused and commit him to prison to undergo sentence imposed on him as per law, if he has not complied with the sentence.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sms

To

- 1.State by: Inspector of Police,  
All Women Police Station,  
Suramangalam, Cr.No.01 of 2007
- 2.The II Additional District and Sessions Judge,  
Salem.
- 3.The Judicial Magistrte - V, Salem.
4. The Chief Judicial Magistrate Salem.
5. The Public Prosecutor, High Court, Madras.
6. The Assistant Registrar Tamil Nadu,  
Mediation and conciliation Centre High Court, Madras 104.

+1cc to M/s. K.Vijayaragavan, Advocate, S.R.No.23602

Crl. R.C. No.773 of 2013

VSN-II (CO)  
Eu 24.6.2020



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