

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

Crl RC.No.153 of 2014

Sundaram

...Petitioner

Vs.

State represented by
Inspector of Police
All Women Police Station, Vellore
Vellore District.

...Respondent

Prayer:

Criminal Revision filed under Section 397 read with Section 401 of the Criminal Procedure Code against the Judgment and sentence passed by the learned Principal District and Sessions Judge, Vellore, Vellore District in Crl.A.No.31/2013 by judgment dated 18.12.2013 and confirming the judgment and sentence passed by the learned judicial Magistrate, No.I, Vellore, Vellore District in C.C.No.290/2011 dated 06.04.2013 and set aside the judgment dated 18.12.2013.

For Petitioner : Mr. E. Kannadasan

For Respondent : Ms. S. Thankira
Government Advocate (Crl. Side)

ORDER

The first accused in CC No.290 of 2011 on the file of the judicial Magistrate, No.I, Vellore, is the Revision Petitioner.

2. The Revision Petitioner (A1) and Gnanasambandam (A2) and Kannamani (A3) were charge sheeted by the police. particularly, A1 had been charge sheeted under 498-A, 495 and 406 read with 109 of IPC.

3. In support of the prosecution case P.Ws.1 to 5 were examined and Exs.P.1 and P.2 were marked. On the side of the accused, no oral and documentary evidence and no M.O. was marked.

4. On consideration of the oral and documentary evidence adduced by the respective parties, the trial court convicted A1 under Section 498-A IPC and sentenced him to undergo one year Rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo Rigorous imprisonment for four weeks and convicted A2 and A3 under 498-A IPC and sentenced them to undergo Rigorous imprisonment for six months and to pay a sum of Rs.500/- each, in default, to undergo Rigorous Imprisonment for four weeks and convicted A1 for the offence under Section 406 IPC and sentenced him to pay a fine of Rs.1,000/-, in default, to undergo Rigorous Imprisonment for four weeks and convicted A2 and A3 for the offence under Section 406 read with 109 IPC and sentenced them to pay a fine of Rs.500/- each, in default, to undergo Rigorous Imprisonment for four weeks. The accused were acquitted of the offence under Section 495 IPC.

5. Challenging the conviction and sentence imposed on them by the trial court, the appeal had been preferred by the Accused A1 to A3 in CA No. 31 of 2013 on the file of the Principal District and Sessions Court, Vellore. The appellate court, on an appreciation of the materials available on record, allowed the appeal preferred by A1 to A3 in part and accordingly, sustained the conviction and sentence imposed on A1 under 498-A IPC and set aside the conviction imposed on A1 under Section 406 IPC and held that A1 is not guilty of the offence under Section 406 IPC. As far as A2 and A3 are concerned, the appellate court had set aside the conviction and sentence imposed on them under Section 498-A IPC and Section 406 read with 109 IPC and resultantly acquitted them of the aforesaid offences.

6. Impugning the conviction and sentence imposed on him by the Courts below under Section 498-A IPC, the first accused has filed this present Criminal Revision.

7. From the materials placed on record, it is found that the wife of the Revision Petitioner / accused namely, Kavitha (P.W.2) is a blind person and it is seen that the marriage between the Revision Petitioner and P.W.2 was solemnized on 18.11.2010 and P.W.2 being a blind person, had to suffer a lot to carry on her daily chores and according to the prosecution, the accused developed a hostile attitude against P.W.2 and started ill treating her both physically and mentally by consuming alcohol for no fault of her and despite the subsistence of marriage between the accused and P.W.2, it is found that according to the prosecution, the accused had married one Omana and through her begotten one male child and accordingly it is the case of the prosecution that the accused had caused cruelty on his wife as contemplated under Section 498-A IPC and instead of amicably living with her, particularly

when she had lost her vision, according to the prosecution, inter alia, the accused has committed the offence under Section 498-A of IPC. Considering the evidence of prosecution witnesses, particularly, the evidence of P.W.2 as well as the evidence of P.Ws.1 and 3, it is found that the accused had been abusing P.W.2 as blind person and ill treating her and almost daily used to consume liquor and picked up quarrel at late night hours with P.W.2 and thereby caused harassment and when P.W.2 is found to be a physically handicapped person, particularly having no vision, in such view of the matter, the accused having contracted marriage with her, is obliged to maintain her and on the other hand, the accused is found to have inflicted cruelty by ignoring her and also abusing her pointing to her vision impairment and disability as well as causing her both physical and mental cruelty by consuming liquor and in such view of the matter, the courts below had rightly found that the accused had inflicted cruelty upon P.W.2 with the aim of grabbing money from her and also by making unwarranted allegation against her pointing to her disability and in such view of the matter, I am of the considered opinion that the courts below are wholly justified in upholding the conviction of the first accused under Section 498-A IPC.

8. As above pointed out, for the offence Under Section 498-A IPC, the accused had been sentenced to undergo Rigorous Imprisonment for one year and also to pay a fine of Rs.2,000/-, in default, to undergo Rigorous Imprisonment for four weeks. The appellate court has also, noting the cruelty faced by P.W.2, who on account of her loss of vision is unable to live peacefully, determined that the sentence imposed on the accused is reasonable and not liable to be interfered with. I do not find any reason to deviate from the abovesaid determination of the first appellate court. In such view of the matter, the argument put forth by the counsel for the accused that this Court should show leniency in sentencing the accused under Section 498-A IPC, does not merit acceptance .

9. In conclusion, this Criminal Revision fails and is accordingly dismissed. If the accused had not complied with the sentence, the Trial Court is directed to secure the presence of the accused to undergo the sentence imposed on him as per law.

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Sd/-
Assistant Registrar

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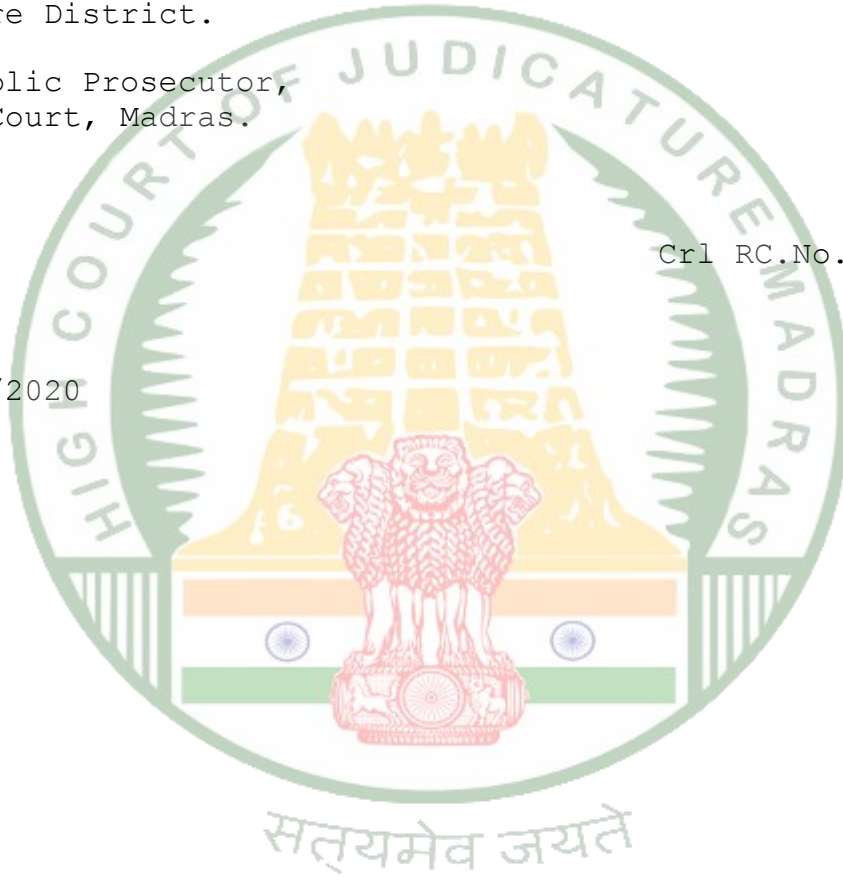
Sub Assistant Registrar

Copy to

1. The Principal District and Sessions Judge,
Vellore, Vellore District.
2. The Judicial Magistrate No.I,
Vellore, Vellore District.
3. The Inspector of Police
All Women Police Station, Vellore
Vellore District.
4. The Public Prosecutor,
High Court, Madras.

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