

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.RC.No.1184 of 2020

K.R.Jagaprathish

..Petitioner

/versus/

State rep.by
Inspector of Police,
All Women Police Station,
Chennai-600 003.

..Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code to call for the records of judgment passed in Crl.A.No.406/2017 by the learned III Additional Sessions Judge at Chennai dated 26.02.2020 confirmed the judgment passed by the learned II Metropolitan Magistrate at Egmore, Chennai in C.C.No.1485/2013 dated 13.11.2017 and examine the correctness, legality and propriety of judgment passed in Crl.A.No.406 of 2017 by the learned III Additional Sessions Judge , Chennai dated 26.02.2020 confirmed the judgment passed by the learned II Metropolitan Magistrate at Egmore, Chennai in C.C.No.1485/2013 dated 13.11.2017 and set aside the same.

For Petitioner : Mr.M.Anandraj

For Respondent : Mr.C.Iyyappa Raj

Additional Government Pleader

ORDER

This Civil Revision Petition has been filed to call for the records of judgment passed in Crl.A.No.406/2017 by the learned III Additional Sessions Judge at Chennai dated 26.02.2020 confirmed the judgment passed by the learned II Metropolitan Magistrate at Egmore, Chennai in C.C.No.1485/2013 dated 13.11.2017 and examine the correctness, legality and propriety of judgment passed in Crl.A.No.406 of 2017 by the learned III Additional Sessions Judge , Chennai dated 26.02.2020 confirmed the judgment passed by the learned II Metropolitan Magistrate at Egmore, Chennai in C.C.No.1485/2013 dated 13.11.2017 and set aside the same.

2. The case of the prosecution is that the marriage between the petitioner and the respondent was solemnized on 15.09.2000 and they have started their matrimonial life happily. After some days, the petitioner started harassing the defacto complainant continuously. Therefore, the defacto complainant lodged a complaint before the Commissioner of Police, Chennai and the same was referred to the Assistant Commissioner of Police. Thereafter, the respondent police filed a case in C.C.No.1485 of 2013 before the learned II Metropolitan Magistrate, Egmore, Chennai. The trial Court convicted the petitioner and sentenced to undergo six months simple imprisonment under Section 248(ii) Cr.P.C and to pay a fine of Rs.5,000/-, in default, to undergo one month simple imprisonment for the offence under Section 498 (A) IPC and undergo one month simple imprisonment for the offence under Section 506(i) IPC and the period of sentence should run concurrently under Section 31 Cr.P.C. and the period of detention undergone by the accused in this case shall be set off under Section 428 Cr.P.C. Out of the fine amount, the sum of Rs.4,000/- shall be paid to P.W.1 under Section 357(i) Cr.P.C towards compensation. The accused is acquitted under Section 248 (i) Cr.P.C for the charges under Section 406 and 420 IPC. Thereafter, the petitioner filed an appeal in C.A.No.406 of 2017 before the Court of Sessions, Judge. The learned III Additional Sessions Judge confirmed the judgment of the trial Court and convicted the petitioner. Hence, the present petition has been filed.

3. During the pendency of the above revision by passage of time, the parties have decided to bury their hatchet and entered into compromise and resolved the issues amicably among themselves.

4. The learned counsel for the petitioner would submit that the wife of the petitioner was diagnosed brain cancer positive and it was informed by the Doctors that her health condition is bad and advised him to admit her in Tamil Nadu Government Multi-Speciality Hospital, Omandurar, Government Estate, Chennai. Due to her illness, the compromise arrived between them has not been informed before the Lower Appellate Court, during the pendency of the appeal. Hence, the Lower Appellate Court convicted the petitioner by confirming the judgment of the trial Court.

5. The learned counsel for the petitioner would submit that on 17.03.2020, P.W.1/the wife of the petitioner admitted in Tamil Nadu Government Multi-Speciality Hospital, Omandurar, Government Estate, Chennai. Due to non-recovery from the brain cancer, she died on 07.04.2020. During P.W.1 was hospitalised, the petitioner was only taking care of the entire family. If he is sent to prison, his entire family would suffer.

6. Today(i.e.,) 16.12.2020, the daughter of the petitioner namely, S.J.Arya Pradosha, P.W.2/the father of P.W.1 and P.W.3/the mother of P.W.1 have appeared before this Court through Video-Conferencing. This Court enquired all the persons and they stated that the petitioner was taking care of P.W.1, when she was hospitalised. At present, he is only taking care of the entire family. During the pendency of the appeal before the Lower Appellate Court, the compromise arrived between them informed but they could not file the compromise memo since P.W.1 was hospitalised.

7. In order to substantiate the above submission, the daughter of the petitioner namely, S.J.Arya Pradosha, P.W.2/the father of P.W.1 and P.W.3/the mother of P.W.1, filed the compromise affidavits dated 15.12.2020. They have no objection to set aside the judgments of the Court below and acquit the petitioner.

8.The learned Additional Public Prosecutor would submit that he has no objection for setting aside the judgments of the court below, in view of the compromise which has been verified.

7.Under such circumstances, in terms of compromise entered between the parties, the judgment of the trial Court in C.C.No.1485 of 2013 passed by the learned II Metropolitan Magistrate, Egmore, Chennai dated 13.11.2017 and the judgment passed in CrI.A.No.406 of 2017 dated 26.02.2020 passed by the learned III Additional Sessions Judge, Chennai are set aside and the Criminal Revision Petition is, accordingly, allowed. The petitioner is ordered to be released forthwith, if he is inside, unless his presence /custody is required in connected with any other case. Fine amount, if any paid, shall be refunded. Bail bond, if any executed, shall stand cancelled.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

ssb

To:

- 1.The learned IIIrd Additional Sessions Judge, Chennai
- 2.The Principal Sessions Judge, Chennai.
- 3.The learned IInd Metropolitan Magistrate, Egmore, Chennai
- 4.The Chief Judicial Magistrate, Egmore, Chennai.

5.The Inspector of Police,
All Women Police Station,
Chennai-600003.

6.The Public Prosecutor,
High Court of Madras.

+2ccs to M/s.R.Arun Kumar, Advocate, SR.No.41486

CRL.RC.No.1184 of 2020

RP (CO)
KKV/23/02/2021



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