

**BAIL SLIP**

The Petitioner/Appellant K.Karuthapandi, S/o. Karuppiah was released on bail as per the order of this Court dated 07.04.2016 made in CrI.MP(MD)No.3056 of 2016 in CrI. RC(MD)No.237 of 2016.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 08.01.2020

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THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI****CrI.RC(MD)No.237 of 2016**

K.Karuthapandi : Petitioner/Appellant

Vs.

State rep. by
The Inspector of Police,
All Women Police Station,
Manamadurai.
(Crime No.2 of 2008)

: Respondent/Respondent

Prayer: Criminal Revision filed under sections 397 and 401 of the Code of the Criminal Procedure against the judgment of the Sessions Judge/Fast Track Court for Women, Sivagangai, in CrI.A.No.75 of 2010, dated 24.03.2010, modifying the conviction and sentence imposed by the Additional District Munsif-cum-Judicial Magistrate, Manamadurai, in C.C.No.125 of 2010, dated 08.09.2010.

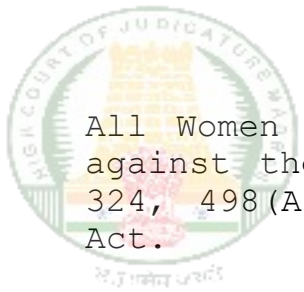
For Petitioner : Mr.A.Rahul

For Respondent : Mr.APG Ohm Chairma Prabhu
Government Advocate
(CrI. Side)

J U D G M E N T

This Criminal Revision is directed against the judgment of the Sessions Judge/Fast Track Court for Women, Sivagangai, passed in CrI.A.No.75 of 2010, dated 24.03.2010, modifying the conviction and sentence imposed by the Additional District Munsif-cum-Judicial Magistrate, Manamadurai, in C.C.No.125 of 2010, dated 08.09.2010.

2. According to the prosecution, the marriage between the victim and the 1st accused was solemnised in the year 2005 and at the time of marriage, 21 sovereigns of jewels, cash of Rs.50,000/- and other articles were given as sreedhana and after the marriage, both of them had a happy life for sometime and thereafter, on 31.12.2007, A1 along with A2 to A4 tortured the victim by demanding more dowry and they pledged the jewels of the victim and also threatened the victim with dire consequence. The Inspector of Police attached to



All Women Police Station, Manamadurai, has filed the final report against the accused person for the offence under sections 294(b), 324, 498(A), 406, 506(II) IPC and section 4 of Dowry Prohibition Act.

3. The trial court convicted the petitioner/A1 for the offences under section 498(A) IPC and section 4 of Dowry Prohibition Act and sentenced him to undergo rigorous imprisonment for one year each for both offences and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for one month for each offence. As against the judgment of the trial court, the petitioner/A1 preferred appeal before the Fast Track Court for Women, Sivagangai, in CrI.A.No.75 of 2010. The first appellate court acquitted the revision petitioner/A1 from the offence under section 4 of Dowry Prohibition Act and confirmed the conviction passed against the petitioner/A1 for the offence under section 498(A) IPC. Aggrieved over the same, the petitioner/A1 is before this court.

4. Heard both sides and perused the materials available on record.

5. In this case, even though the learned counsel appearing for the petitioner/A1 argued on merits, but he has stated that in the interest of the welfare of the children, both the petitioner and victim compromised all the issues between them and both of them living together along with child.

6. Further, the learned counsel appearing for the petitioner submitted the decision reported in **(2007)2 MLJ (CrI) 70 (Raju and another Vs. Inspector of Police, New Hope Police Station)**. In that case, it has been held as follows:-

"It is well settled that while awarding sentence the effect of compromise can be taken into consideration. It has been stated that the appellant has remained in custody for a period of 14 months and there is no allegation that he assaulted the deceased."

7. In **AIR 2009 SC 675 (Ishwar Singh Vs. State of Madhya Pradesh)**, it has been held as follows:-

"13. Now, it cannot be gainsaid that an offence punishable under Section 307 IPC is not a compoundable offence. Section 320 of the Code of Criminal Procedure, 1973 expressly states that no offence shall be compounded if it is not compoundable under the Code. At the same time, however, while dealing with such matters, this Court may take into account a relevant and important consideration about compromise between the parties for the purpose of reduction of sentence."

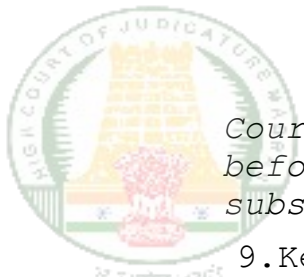


14. In *Jetha Ram Vs. State of Rajasthan*, (2006) 9 SCC 255, *Mrugesan & Ors. V. Ganapathy Velar*, (2001) 10 SCC 504 and *Ishwarlal V. State of M.P.*, JT 1988 (3) SC 366 (1), this Court, while taking into account the fact compromise between the parties, reduced sentence imposed on the appellant-accused to already undergone, though the offences were not compoundable. But it was also stated that in *Mahesh Chand V. State of Rajasthan*, AIR 1988 SC 2111, such offence was ordered to be compounded.

15. In our considered opinion, it would not be appropriate to order compounding of an offence not compoundable under the Code ignoring and keeping aside statutory provisions. In our judgment, however, limited submission of the learned counsel for the appellant deserves consideration that while imposing substantive sentence, the factum of compromise between the parties is indeed a relevant circumstance which, the Court may keep in mind."

8. Further, in the judgment reported in **2012 CRL.LJ.667** (*Culab Das and others Vs. State of M.P.*), the Hon'ble Apex Court as follows:-

"8. Having said that we are of the view that the settlement/compromise arrived at between the parties can be taken into consideration for the purpose of determining the quantum of sentence to be awarded to the appellants. That is precisely the approach which this Court has adopted in the cases referred to above. Even when the prayer for composition has been declined this Court has in the two cases mentioned above taken the fact of settlement between the parties into consideration while dealing with the question of sentence. Apart from the fact that a settlement has taken place between the parties, there are few other circumstances that persuade us to interfere on the question of sentence awarded to the appellants. The incident in question had taken place in the year 1994. The parties are related to each other. Both Appellant nos. 2 and 3 were at the time of the incident in their twenties. It is also noteworthy that the incident had led to registration of a cross case against the complainant party in which the trial Court has already convicted *Veeraji and others* for offences punishable under Sections 325/34 and 323 IPC and sentenced them to undergo imprisonment for a period of two years and a fine of Rs.300/- and imprisonment of six months under Section 323 IPC. We are told that the parties having settled the matter, will approach the High



Court for an appropriate order in the appeal pending before it. More so, the appellants have already served substantial part of the sentence awarded to them."

9. Keeping in mind the above citations and also considering the relationship between the parties and the settlement arrived at between the parties and the accused served substantive part of sentence, it is held that the sentence imposed on the petitioner/accused is reduced the sentence to the period already undergone. It is seen from the records that the petitioner/accused was in judicial custody between 24.03.2016 and 08.05.2016 (45 days).

10. Accordingly, this Criminal Revision is **partly allowed**, by reducing the sentence awarded to the petitioner/accused to the sentence already undergone by him. In respect of fine amount, the findings of the first appellate court is confirmed.

Sd/-

Assistant Registrar ()

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Sub Assistant Registrar(CS)

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To,

1. The Additional District Munsif-cum-Judicial Magistrate,
Manamadurai, Sivagangai District.

2. -do- Thro The Chief Judicial Magistrate,
Sivagangai District.

3. The Sessions Judge Fast Track Court for Women,
Sivagangai.

4. The Inspector of Police,
All Women Police Station,
Manamadurai.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

6. The Superintendent Central Prison,
Madurai.

7. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai (2 copies)

Judgment made in
Crl.RC(MD) No.237 of 2016
08.01.2020