



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2020

CORAM:

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C (MD) Nos.40 and 42 of 2016

Fathima Jamali

... Petitioner in both Crl.R.Cs.

Vs

1.The State Rep. by
Inspector of Police,
All Women Police Station,
Thirupathur,
Sivagangai District.

2.Sathik Basha

3.Sikkandar

... Respondents in both Crl.R.Cs.

Prayer in Crl.R.C.(MD)No.40 of 2016: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to the Judgment of acquittal dated 27.07.2015 made in Crl.A.No.19 of 2015 on the file of the District and Sessions Court, Sivaganga confirming the Judgment dated 02.03.2012 made in C.C.No.20 of 2009 on the file of the District Munsif cum Judicial Magistrate, Thirupathur and to convict the respondents 2 and 3 /Accused Nos.1 & 2 and allow this criminal revision.

Prayer in Crl.R.C.(MD)No.42 of 2016: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to the Judgment of acquittal dated 27.07.2015 made in Crl.A.No.18 of 2012 on the file of the District and Sessions Court, Sivaganga reversing the Judgment of conviction dated 02.03.2012 made in C.C.No.20 of 2009 on the file of the District Munsif cum Judicial Magistrate, Thirupathur and set aside the same as illegal and to convict the respondents 2 and 3 /Accused Nos.1 & 2 and allow this criminal revision.

For Petitioner	: Mr.R.Gandhi
For R1	: Mr.R.Srinivasan Government Advocate (Crl.side)
For R2	: Mr.T.Lajapathi Roy
For R3	: Expired



ORDER

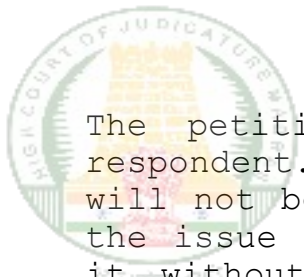
The petitioner in these two revision petitions is one Fathima Jamali. She got married to the second respondent herein namely Sathik Basha. Two children were born through the wedlock. Their marital relationship came under strain. Therefore, the petitioner filed a criminal case against her husband and in-laws and the same was registered as Crime No.12 of 2008 before the Inspector of Police, All Women Police Station, Thirupathur. The case was investigated and final report was filed before the Judicial Magistrate, Thirupathur. Cognizance of the offences under Sections 498(A) and 406 of IPC and Section 4 of Dowry Prohibition Act was taken. Later, charges were altered and the charge under Section 406 of IPC was dropped. The learned trial Judge, by Judgment dated 02.03.2012 found A1-Sadiq Batcha and A2-Sikkandar guilty, but acquitted the other two accused. Aggrieved by the same, the revision petitioner herein as well as the convicted accused preferred the criminal appeals. The appeal filed by the convicted accused was allowed, while the appeal filed by the petitioner herein was dismissed. Challenging the same, this revision case came to be filed.

2.The learned counsel appearing for the petitioner submitted that the petitioner is not asking for any maintenance and all that she wants is return of her jewelry which are said to be in the custody of her husband.

3.I then indicated that the petitioner can be given liberty to file a petition under the provision of Protection of Women from Domestic Violence Act asking for return of her jewelry and that, the Court concerned can be mandated to decide the issue dehors the outcome of the criminal prosecution. I made this suggestion even before hearing the respective counsel on the merits of the matter.

4.The learned counsel appearing for the second respondent / husband submitted that if the petitioner files such a petition, the same will have to be tested entirely on merits. The second respondent will not question the maintainability of the said petition by citing the acquittal rendered in the criminal case.

5.Recording the said concession made by the learned counsel for the second respondent, on instruction, even while sustaining the Judgments made in these revision cases, I grant liberty to the petitioner herein to work out her rights for return of her jewelry by filing an appropriate petition under the provision of Protection of Women from Domestic Violence Act. Such a petition can be instituted by the petitioner within a period of eight weeks from the date of receipt of a copy of this order. If such a petition is filed by the petitioner, the same will be entertained and dealt with on merits without any reference to maintainability or limitation.



The petitioner will implead the second respondent alone as a respondent. In other words, the erstwhile in-laws of the petitioner will not be shown as respondents. The Court concerned will decide the issue entirely on the strength of the materials adduced before it without regard to the factum of acquittal rendered in these cases.

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6.The Judgments impugned in these revision cases are confirmed. With this liberty to the petitioner, these criminal revision cases are dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District and Sessions Judge, Sivagangai.
- 2.The District Munsif cum Judicial Magistrate, Thirupathur.
- 3.The Inspector of Police,
All Women Police Station,
Thirupathur, Sivagangai District.

Copy to: The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.(2)

+1cc to Mr.R.Gandhi, Advocate, SR.No.26135.
+2cc to Mr.T.Lajapathi Roy, Advocate, Sr.No.26540.

CrI.R.C(MD)Nos.40 and 42 of 2016
18.12.2020

AC(CO)
CS(06.01.2021) 3P 8C