



BAIL SLIP

The Petitioners/Accused No.2 & 3, namely, Ashokan (A2) and Padmavathi (A3) were released on bail as per the order of this Court dated.02.11.2015 made in Crl.MP.No.1 of 2015 in Crl.R.C.No.1237 of 2015 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order 22.07.2021	Date of Pronouncing Order 24.08.2021
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.1237 of 2015

1.Ashokan
2.Padmavathi

..Petitioners/Accused No.2 and 3

Vs.

State Rep.by
The Inspector of Police,
All Womens Police Station, Chidambaram,
Cuddalore District.
(Crime No.3 of 2007)

.. Respondent/Complainant

PRAYER : Petition filed under Section 397 read with 401 of the Criminal Procedure Code, to call for records pertaining to the judgment dated 20.08.2015 passed in C.A.No.12/2014 on the file of the learned Additional District Judge, Chidambaram, confirming the judgment dated 25.02.2014 passed in C.C.No.129 of 2007 on the file of District Munsif and Judicial Magistrate, Paranghipettai and set aside the same by allowing the above revision.

For Petitioners : Mr. Om Sai Ram

For Respondent : Mr. R. Vinoth Raja,
Government Advocate

O R D E R

The matter is heard through "Video Conference".

2. Husband and Mother-in-law of the victim girl are the revision petitioners herein.



3. The revision petitioners filed the revision against the judgment and the sentence passed by the learned Additional District Judge, Fast Track Court No.1, Chidambaram, dated 29.06.2010 in C.A.No.13/2008 by confirming the judgment and sentence passed by the learned District Munsif cum Judicial Magistrate, Parangipettai, convicting the accused dated 25.02.2014 in C.C.No.129 of 2007 under Sections 498 A of IPC to undergo sentence for a period of one year RI and to pay fine of Rs.500/- in default, one week RI and for offence under Section 4 of Dowry Prohibition Act, to undergo sentence for a period of one year RI and to pay a fine of Rs.500/- in default, one week RI.

4.The respondent/police filed a charge sheet in final report in Crime No.3/2007, alleging that the defacto complainant Jeeva and the first accused/Ashokan are married according to Hindu Customs on 12.02.2006 and the marriage was solemnized at the place of the accused wherein, 5 1/2 sovereigns and Rs.45,000/- worth of house material and 1 T.V.S. Excel Vehicle as seer and they have been living as a joint family. Thereafter, A2/ Mother-in-law of the defacto complainant and accused No.3/brother of A1, has demanded dowry and thereby, they have committed mental cruelty. Hence, charge under Section 498A of IPC and 4 of Dowry Prohibition Act.

5. In support of the case, P.W.1 to P.W.9 were examined and statement of the wife is marked as Ex.P1 and F.I.R. is marked as Ex.P2. On consideration of both oral and documentary evidence, the learned Magistrate, Paranghipettai, has held that all the three accused has committed offence under Section 4 of Dowry Prohibition Act and 498 A of IPC and laid a sentence as stated supra.

6. On appeal, the learned Additional District Judge, Chidambaram, in Crl.A.No.12/2014, taking into consideration, and answer elicited in the cross examination and also the evidence of P.W.1, in entirety, has held that A3 has not committed offence. Accordingly, acquitted him and held that charge under Section 4 of Dowry Prohibition Act, is not proved beyond reasonable doubt against A1 to A3 and accordingly, acquitted them and in respect of charge under Section 498A, 3rd accused was acquitted. However, accused A1 and A2 were convicted and sentenced as stated supra.

7. Pending appeal, the second accused-Padmavathi died and accordingly, proceedings against her stands abated. Now, the charge is stands only to A1 in respect of charge under Section 498A of IPC. In respect of charge under Section 4 of Dowry Prohibition Act, is already been acquitted by the lower



appellate Court. After perusal of the evidence of P.W.1, the wife, there is no whisper against A1 with regard to alleged mental cruelty. It is only P.W.2 and P.W.3 have stated so, against the accused.

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8. The learned counsel for the petitioner would contend that the allegations of mental cruelty is only against A2, who is no more. As against this present and existing accused A1, there is no specific averment by PW.1-wife/victim girl. Statement of the parents P.W.2 and P.W.3 are only with a view to coerce the P.W.1 jointly and seeks to set aside the conviction and sentence for the offence under Section 498-A IPC.

9. The learned Government Advocate (Crl.side) appearing for the respondent would draw my attention to the evidence of P.W.2 and P.W.3. In the cross examination they have stated about the suggestive case of the defence witness is that P.W.1 has become pregnant without physical intimacy with A1 and hence, A1 was not living with P.W.1 and furthermore, I find that there is no cross examination on the first stage, only after completion of examination of private prosecution witnesses of P.W.1 to P.W.5, she was cross examined.

10. The suggestive case of the defence is that P.W.1 is living with her maternal uncle Rajendran and begotten a child and hence, both P.W.2 and P.W.3 are supporting the activity of P.W.1. It is to be stated that on a close perusal of chief and cross examination of P.W.1, she has not whispered anything regarding cruelty against her husband(A1), her evidence is only against A2/Mother-in-law, who is dead and consequently, the proceedings against A2 was abated, as observed earlier.

11. After going through the evidence of P.W.1, chief and cross examination, I do not find any incriminating substance against the first accused. The evidence of P.W.2 and P.W.3, with regard to the alleged cruelty is said to have been made by P.W.1 to P.W.3. Hence, I find that in the absence of any specific averments by P.W.1 against the first accused, the conviction under Section 498A against A1 is unsustainable in law. Accordingly, conviction and sentence passed thereto, is hereby set aside. Consequently, the criminal revision in respect of A1 stands allowed to the extent indicated above.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
All Womens Police Station, Chidambaram,
Cuddalore District.

2. The Additional District Judge,
Chidambaram.

3. The District Munsif and Judicial Magistrate,
Paranghipettai.

4. The Chief Judicial Magistrate,
Cuddalore (For Information)

5. The Public Prosecutor,
High Court, Madras

+1CC to M/s. OM Sai Ram, Advocate, Sr.No.42574

Crl.R.C.No.1237 of 2015

NMI (CO)

K.RK. (20.09.2021)