



Bail Slip

The Petitioners / Accused / Appellants namely (1)R.Parthiban, S/o.Radhakrishnan aged 40 years, (2)R.Kasthuri, W/o.Radhakrishnan aged about 58 years are released on bail in CrI.M.P.No.1564 of 2016 in CrI.R.C.No.229 of 2016 dated 19.02.2016 by this Hon'ble Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

CORAM :

THE HON'BLE MS.JUSTICE R.N.MANJULA

CRL.R.C.NO.229 OF 2016

1.R.Parthiban

2.R.Kasthuri

...Petitioners / Accused

Vs.

The State rep by  
The Inspector of Police,  
H8, Thiruvettiur P.S,  
Chennai-600 019.

...Respondent / Complainant

Criminal Revision filed under Sections 397 and 401 Cr.P.C praying to set aside the judgment and sentence of the Principal Sessions Judge, Thiruvallur in C.A.No.109 of 2013 dated 29.01.2016 confirming the conviction under Section 498(A) of IPC and sentenced to undergo Rigorous Imprisonment for a period of three years each and to pay a fine of Rs.1,000/- each in default to undergo Simple Imprisonment for six months passed by the learned Assistant Sessions Judge, Ponneri, Thiruvallur District in S.C.No.124 of 2010 dated 19.11.2013 and acquit the petitioner.

For Petitioners : Mr.R.Sankarasubbu

For Respondent : Mr.A.Gopinath  
Government Advocate (CrI.Side)

O R D E R

This Criminal Revision has been preferred challenging the judgment of the learned Principal Sessions Judge, Tiruvallur



2. The marriage between the first accused and the deceased Bhavani was held on 15.02.2007 and after the marriage, they have been living as couples at the house of the first accused along with his mother/second accused. Since the accused had caused cruelty to the deceased Bhavani by demanding dowry, she committed suicide by hanging.

4. During the course of the trial, on the side of the prosecution, 14 witnesses have been examined as PW1 to PW14 and 7 documents were marked as Exs.P1 to P7 and M.O.No.1 has also been marked. On the side of the defence, no witness has been examined and no document was marked.

5. At the conclusion of trial and on considering the materials available on record, the learned trial Judge found both the accused guilty for the offence under Section 498(A) IPC and convicted and sentenced them to undergo Rigorous Imprisonment for Three years and imposed a fine of Rs.1,000/- in default to undergo 6 Months each. The accused were found not guilty for the offence under Section 304(B) IPC. The appeal preferred by the accused in C.A.No.109 of 2013 was also dismissed on 29.01.2016 by the learned Principal Sessions Judge



of Tiruvallur. Aggrieved over that the accused have preferred the present revision.

6. The learned counsel for the revision petitioners/accused submitted that during the pendency of this revision case, the second petitioner/A2 died and the Death Certificate has also been produced to prove the same. He further submitted that the trial Court had found the accused guilty only based on the evidence of the close relatives of the deceased and there is no evidence of independent witness is available. He has also submitted that in the event of dismissing the revision, some indulgence may be shown in the matter of punishment.

7. The learned Government Advocate (Crl. Side) appearing for the respondent submitted that the witnesses have stated clearly that the cruelty caused against the deceased. The Courts below have rightly appreciated the evidence available on record and hence, this Revision has to be dismissed.

8. Heard the learned counsel for the revision petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent. Perused the entire materials available on record.

9. Point for consideration:-

Whether the punishment of the accused for the offence under Section 498(A) IPC by the learned Sessions Judge based on the materials available on record is fair and proper?

10. The fact that the deceased is the wife of the first accused is not denied. After marriage, the couples were living together in the house of the first accused as a joint family along with the second accused, who is the mother of the first accused. Apart from the allegations of dowry demand, it is also alleged that the first accused was in the habit of spending his time at home without engaging himself in any avocation. It is alleged that he was in the habit of drinking alcohol and fetching quarrel with the deceased. Hence, the deceased got frustrated, went to the extent of taking away her own life by committing suicide. Despite the evidence did not disclose that the accused did not demand dowry, the evidence of witnesses is sufficient to convict the accused for causing mental cruelty. If the husband of a woman like the accused, without going for any job, causing cruelty by consuming alcohol, that would definitely cause stress in her mind. Though PWS1 to 3 were close relatives of the deceased, in this type of offences, the fact about the harassment meted out to the victim could be spoken only by the close relatives of the victim. The helpless women like the deceased would only call their parents or



siblings and share their agony. So, it is right for the Trial Court to believe the evidence of the prosecution witnesses and record the guilt of the accused under Section 498(A) IPC by placing reliance on it.

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11. However, it is submitted by the learned counsel for the petitioner that the sridhana articles brought by the deceased have been returned to her relatives and they have negotiated peace. In fact, the learned counsel for the petitioner filed a petition for compounding the offence. The petition cannot be taken for consideration for the very reason that the victim is no more and the compounding petition cannot be filed by her. If compounding petition is filed with the consent of the victim, then alone it can be taken up for consideration. Though the parties might have worked out some settlement between them, the offence cannot be compounded in the present status.

12. Considering the fact that the second petitioner/second accused died during the pendency of this case, this case is dismissed as abated as against the second petitioner/second accused. However, taking into consideration of the present circumstances and the fact that the belongings of the victim were returned to her relatives, I feel that some indulgence may be shown in the matter of punishment.

13. In the result, this Criminal Revision is partly allowed. The judgment dated 29.01.2016 made in C.A.No.109 of 2013 on the file of the learned Principal Sessions Judge, Pondicherry is modified to the effect that the first petitioner/first accused shall undergo Rigorous Imprisonment for Three Months. Rest of the punishment imposed for the rest of offence for which the accused was found guilty and convicted shall remain unaltered and the sentence will run concurrently.

Sd/-  
Assistant Registrar

// True Copy //

Sub Assistant Registrar

kmi

To

1.The Principal Sessions Judge,  
Thiruvallur.

2.The Assistant Sessions Judge,  
Ponneri,  
Thiruvallur.



3.The Chief Judicial Magistrate,  
Thiruvallur.

4.The Inspector of Police,  
H8, Thiruvettiyur Police Station,  
Chennai.

5.The Public Prosecutor,  
High Court of Madras,  
Chennai - 104.

6.The Section Officer,  
Criminal Section,  
High Court, Madras.

+1cc to Mr.R.Sankarasubbu, Advocate Sr.No.69334

Cr1.R.C.No.229 of 2016

SJ(CO)  
RVM(24/01/2022)