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BAIL SLIP

The Appellant / Accused namely Manikandan, S/o.Ganesan, was directed to be released on bail by the order of this Court of dated 01.03.2016 made in Crl.M.P.No.2205 of 2016 in Crl.R.C.328 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM :

THE HONOURABLE MS.JUSTICE R.N.MANJULA

CRL.R.C.NO.328 OF 2016

Manikandan

...Petitioner / Appellant /
Accused

Vs.

The State rep.by
The Inspector of Police,
All Women Police Station,
Chidambaram,
Cuddalore District.
(Crime No.15 of 2013)

...Respondent / Respondent /
Complainant

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to call for the records and set aside the judgment in Crl.A.No.09 of 2015 dated 17.12.2015 passed by the learned II Additional District and Sessions Court, Chidambaram, confirming the conviction judgment made in C.C.No.03 of 2014 dated 12.02.2015 passed by the learned Judicial Magistrate No.I, Chidambaram and set the petitioner at liberty.

For Petitioner	:	Mr.G.Pugazhenth
For Respondent	:	Mr.A.Gopinath
		Govt.Advocate (Crl.Side)

ORDER

This Criminal Revision Case has been filed challenging the judgment of the II Additional District and Sessions Court, Chidambaram, dated 17.12.2015 passed in Crl.A.No.09 of 2015, confirming the judgment of the learned Judicial Magistrate No.I, Chidambaram, dated 12.02.2015 passed in C.C.No.03 of 2014.

2. The case of the prosecution is that the 1st accused married the defacto complainant (PW.1) and they were living as



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husband and wife along with parents. The 1st accused has developed an illicit intimacy of another woman and started to harass the defacto complainant/PW.1 by bringing that lady to home; he ill treated PW.1 by beating her often; on 09.08.2013, he quarreled with PW.1 by abusing her with filthy language and drove her out from the matrimonial home. On the complaint given by PW.1 on 21.08.2013, a case was registered in Crime No.15 of 2013 of Chidambaram All Women Police station for offence under Sections 354, 498(A), 294(b) and 506(i) IPC. First Information Report was prepared by PW.9-Thripura Sundari/Sub Inspector of Police. PW.10- Meena/Inspector of Police took up the investigation and went to the place of occurrence, prepared a rough sketch and the observation mahazar. She enquired the witnesses and recorded the statement on 21.08.2013 and arrested the 1st accused. Later she arrested the rest of the accused also. After completing the investigation, she filed a charge sheet against the accused under Section 354, 498(A), 294(b) and 506(i) IPC. She also sent an alteration report (Ex.P.7). After the case was taken on file and on being satisfied with the materials produced before the Court, the learned trial Judge framed charges against the accused under Section 354, 498(A), 294(b) and 506(i) IPC. The accused have been questioned. Since the accused denied the charges, trial began.

3. During the course of the trial, on the side of the prosecution, ten (10) witnesses were examined as PWs.1 to 10 and seven (7) documents were marked as Exs.P1 to 7. On the side of the petitioner/accused, no witness was examined and no document was marked.

4. After the conclusion of the trial and on consideration of the materials available on record, the learned trial Judge found the 1st accused guilty and convicted and sentenced vide impugned judgment dated 12.02.2015, made in C.C.No.03 of 2014, as follows:-

Rank of the accused	Charges	Findings of the trial Court	Punishment
1 st accused	U/s.294(b) IPC	Found guilty	Convicted and imposed with a fine of Rs.1,000/-, in default to undergo 2 weeks Simple Imprisonment.
	U/s.498(A) IPC	Found guilty	Convicted and sentenced to undergo 2 years Simple Imprisonment and to pay a fine of Rs.2,000/-, in default to undergo for further period of 3 weeks Simple Imprisonment.



The 2nd accused is the mother, 3rd accused is the father and 4th accused is the brother of the 1st accused. The learned trial Judge has found the accused 2 to 4 not guilty and acquitted them.

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5. Against the said conviction, the petitioner/accused has filed an appeal in C.A.No.09 of 2015, before the learned II Additional District and Sessions Judge, Chidambaram and that was dismissed by confirming the judgment of the trial Court. Aggrieved over that, this Criminal Revision Case has been filed by the petitioner/1st accused.

6. Heard the learned counsel for the petitioner/1st accused and the learned Government Advocate (Crl.Side) for the State.

7. The learned counsel for the petitioner submitted that the learned trial Judge has not appreciated the evidence in proper perspective by giving due significance to the contradiction in the evidence of witnesses; the evidence of PW.1 (defacto complainant) was not corroborated with any other evidence; the prosecution has not proved the guilt of the accused beyond reasonable doubt; it is wrong on the part of the learned Sessions Court to convict the accused.

8. The learned Government Advocate (Crl.Side) for the State has submitted that the defacto complainant, who was examined as PW.1, has clearly stated about the event that had occurred in her life during her marital life with the 1st accused and the manner in which she was ill treated by the 1st accused and his family members; the learned trial Judge has correctly taken note of the reliable evidence of the prosecution witnesses and found the 1st accused guilty and hence the judgment of the Session Court does not require any interference.

9. Points for consideration:

Whether the sentence and judgement of the trial court suffer from any factual or legal infirmity so as to warrant my interference?

10. The relationship between the defacto complainant and the 1st accused is not in dispute. After the marriage between the 1st accused and the defacto complainant, they started their matrimonial life in the house of the 1st accused along with his parents. The defacto complainant was also blessed with two children out of her wedlock with the 1st accused. Misunderstanding started to arise between the couples, when the 1st accused had developed illegal intimacy with an another woman. At some point of time, the 1st accused brought the other woman to the house of PW.1 and that had escalated the tension. When PW.1 objected the relationship of the 1st accused with the other



woman, the 1st accused got infuriated, abused, harassed and ill treated PW.1. At last the 1st accused had driven away PW.1 and sent her out of the matrimonial house. Thereafter, also the 1st accused did not realize his mistake and change his attitude. Having frustrated with the attitude of the 1st accused and unable to withstand his ill treatment, PW.1 had given a notice complaint on 21.08.2013. In the complaint (Ex.P1) itself, PW.1 has narrated about the incident that had drifted away the relationship between herself and the 1st accused. Her grievance is that the unjustified attitude of the 1st accused was not condemned by his parents and his brother. She narrated the incident in the same manner as how she had narrated in the complaint. Despite there was some allegations of dowry demand and other, the problems between the couples went intense only because the illegal intimacy developed by the 1st accused with some other woman.

11. The learned counsel for petitioner/1st accused submitted that except the evidence of PW.1, no other supporting/corroborated evidence are available and that would weaken the case of the prosecution. Since the matrimonial offences having happened inside the four walls of the house, very rarely it would come to the knowledge of a third person. Even if the incident are known to other people, they would mostly be relatives of either the defacto complainant or her husband. Persons who are in a close relationship with the 1st accused like his relatives will not come forward to depose evidence against him. So inevitably the parents of the victim alone can come to narrate about the harassment and ill treatment meted out to their daughter by her husband and in-laws. PW.2 is the father of PW.1, PW.3 is the maternal uncle of PW.1. Apart from PW.2 and PW.3, PW.4 relatives of PW.1, also deposed evidence in support of the case of the prosecution.

12. PW.2 and PW.4 have stated that they had the knowledge about the misunderstanding and ill treatment suffered by PW.1 at the hands of the 1st accused. They have stated that PW.1 was driven away from the matrimonial house by the 1st accused. All these events would only show that the 1st accused did not live a peaceful life with the defacto complainant/PW.1 and he was continuously ill treating her. However, it is brought to the knowledge of this Court that during the pendency of the case, there was a settlement in connection with the maintenance case already filed by the defacto complainant in the jurisdictional Court. But on perusal of compromise memo entered into between the parties, there is no mention about this case. That would show that the defacto complainant did not want to leave the accused scot-free. The evidence on record would also show that the 1st accused had developed a kind of illegal intimacy with some other woman and ill treated PW.1. The 1st accused and PW.1



have got two children. It is seen that he has another child through another woman also. These kind of attitude of the 1st accused cannot be easily condoned by a wife like PW.1. So the evidence available on record is sufficient to prove the guilt of the accused under Section 294(b) and 498(A) IPC. The learned trial Judge has rightly appreciated the evidence and convicted the 1st accused.

13. However, the post case development would show that the mother of the 1st accused had settled some property in favour of PW.1 while compromising the maintenance case. The learned counsel for the petitioner/1st accused also submitted that given the nature of the present circumstances, some indulgence should be shown in the matter of punishment. Taking into consideration all these facts and attendant circumstances, I feel that a little consideration should be shown in the quantum of sentence alone.

14. In the result, this Criminal Revision Case is partly allowed. The judgment of the first appellate Court is modified to the extent that the 1st accused is found guilty for the offence under Section 498(A) and 294(b) IPC and he stands convicted and sentenced to undergo 6 months S.I along with fine of Rs.2,000/-, in default to undergo 3 week Simple Imprisonment for the offence under Section 498(A) IPC; and he is imposed with a fine of Rs.1,000/-, in default to undergo 2 weeks Simple Imprisonment for the offence under Section 294(b) IPC. If the fine amount has already been paid by the accused, he need not pay it once again. The period of incarceration undergone by the accused can be set off under Section 428 Cr.P.C.

15. The learned trial Judge is directed to issue Non-Bailable Warrant for securing the accused and send him to prison to undergo the remaining period of sentence.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

rpl

To

1.The II Additional District
and Sessions Judge,
Chidambaram.



2.(do through) The Principal Sessions Judge,
Chidambaram.

3.The Judicial Magistrate No.I,
Chidambaram.

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

5.The Inspector of Police,
All Women Police Station,
Chidambaram, Cuddalore District.

6.The Public Prosecutor,
High Court, Madras.

Copy To

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

+1cc to Mr.G.Pugazhenth, Advocate Sr.No.65134

Cr1.R.C.No.328 of 2016

SVI (CO)
RVM(18/02/2022)