



BAIL SLIP

The Appellant/Accused namely Ravichandran, S/o.Pappanna Gounder was directed to be released on bail in and by the order of this court dated 20.10.2014 and made in Crl.M.P.No.1 of 2014 in Crl.R.C.No.1064 of 2014 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.1064 of 2014

Ravichandran

..Petitioner

Versus

State by
Inspector of Police,
AWPS, Bургur,
Krishnagiri District.
In Crime No.11 of 2004

..Respondent

Prayer : Criminal Revision Case is filed under Section 397 and 401 of Cr.P.C., against the judgment of the learned Additional District and Sessions Judge, Krishnagiri dated 10.09.2014 in Crl.A.No.5 of 2009, so far as it relates to the conviction and sentence of the appellant/1st accused under Section 323 of I.P.C in C.C.No.17 of 2008 by the learned Chief Judicial Magistrate, Krishnagiri.

For Petitioner : Mr.J.Hariharan

For Respondent : Mr.L.Baskaran
Government Advocate (Crl.Side)

ORDER

This Revision Case is filed by the petitioner/accused No.1 aggrieved by the judgment of the learned Chief Judicial Magistrate, Krishnagiri in C.C.No.17 of 2008 dated 23.01.2009 whereby he along with other accused in the case namely A2 to A5 were convicted for the offences under Sections 498-A, 324 of I.P.C and Section 3 of Dowry Prohibition Act and the judgment of the learned I Additional District and Sessions Judge, Krishnagiri in Crl.A.No.5 of 2009 dated 10.09.2014, whereby the Appellate Court acquitted the accused Nos.2 to 5 in toto,



acquitted the petitioner herein also for the other offences, but, altered the conviction for the offence under Section 324 of I.P.C as one of the Section 323 of I.P.C and imposed a punishment of six months Rigorous Imprisonment with fine of Rs.1,000/- and in default of payment of fine, to undergo one month Simple Imprisonment.

2. On 11.07.2004, P.W.1 Navamani lodged a complaint before the All Women Police Station, Burgur, alleging physical and mental cruelty against her husband P.Ravichandran (petitioner herein) and in-laws namely, Pappanna Goundar, Muniyammal, Janaki and Jagannathan. Upon the complaint, P.W.10, Sub-Inspector of Police registered a case in Crime No.11 of 2004 and P.W.11, Inspector of Police, All Women Police Station, the investigating officer in this case took up the case for investigation and laid a chargesheet proposing all the five accused guilty of the offences under Section 498-A and 324 of Indian Penal Code and Section 3 of Dowry Prohibition Act. The papers were, therefore, transferred to the file of the learned Chief Judicial Magistrate, Krishnagiri on 01.07.2008 and the learned Chief Judicial Magistrate, Krishnagiri took the case on file in C.C.No.17 of 2008. Upon being questioned, the accused denied the charges and stood trial.

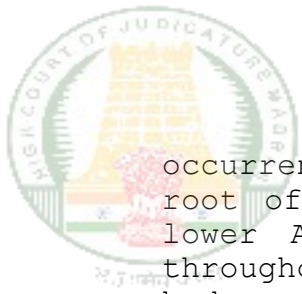
3. The prosecution examined the first informant, Navamani as P.W.1; P.W.1's brother namely, one Subramani as P.W.2, who spoke about the stridhana given to P.W.1 and about the panchayat on 15.05.2004; one Muniyammal, mother of P.W.1 as P.W.3, who spoke about the factum of marriage and P.W.1's version given to her that she was subjected to Domestic Violence; one Narayanan as P.W.4, who is the panchayat president, who spoke about the conduct of panchayat between the spouses and uniting the couple; one Elangovan as P.W.5, who also accompanied P.W.1's family in the panchayat talks; one Ramamurthy as P.W.6, who was the mahazar witness and who turned hostile; one Muniappa Naidu, who is also a mahazar witness and turned hostile as P.W.7; one Dr.Masilamani as P.W.8, who gave treatment to P.W.1 and deposed that there were three simple injuries on the head, back, right hand of P.W.1 and that P.W.1 also complained that she had pain in the chest and that he issued Ex.P4, wound certificate; one Munusamy as P.W.9, who was the Head Constable, who recorded the statement from P.W.1 when she was admitted in the hospital after the incident; one Malliga, S.I of Police, who registered F.I.R as P.W.10; one Bhagyaparimala, the investigating officer as P.W.11. The prosecution marked the complaint lodged by P.W.1 as Ex.P1, the signature of P.W.6 in the observation mahazar as Ex.P2; the signature of P.W.7 in the observation mahazar as Ex.P3; wound certificate issued to P.W.1 as Ex.P4; the A.R copy received from the hospital as Ex.P5; the First Information Report as Ex.P6; the observation mahazar as Ex.P6 and the rough sketch as Ex.P8 and rested its case.



4. Upon being questioned about the material evidence on record and incriminating circumstances under Section 313 Cr.P.C., all the accused denied the same as false. Thereafter, the learned Chief Judicial Magistrate proceeded to hear the learned Assistant Public Prosecutor on behalf of the prosecution and the learned Counsel for the accused. By its judgment dated 23.01.2009, the Trial Court believed P.W.1 and the other corroborating evidence of her relatives and convicted all the accused Nos.1 to 5 for the offences under Section 498-A and 324 of I.P.C and Section 3 of Dowry Prohibition Act and imposed punishment on all the five accused.

5. Aggrieved by the same, all the five accused preferred appeal in Crl.A.No.5 of 2009, on the file of the learned Additional District and Sessions Judge, Krishnagiri and upon appreciating the evidence, by the judgment dated 10.09.2014, the Appellate Court found that there were material contradictions in the evidence of P.W.1 and her version about the demand of dowry as unbelievable. The Appellate Court also found that there are contradictions regarding her evidence as against the other persons also, since, at the earliest point of time when she narrated the incident to the Doctor, she did not mention the names of her in-laws. Therefore, considering the evidence on record, the Appellate Court acquitted all the five accused of the charges under Section 498-A of I.P.C and Section 3 of Dowry Prohibition Act. However, in respect of the petitioner/first accused alone, the lower Appellate Court found on the strength of the Ex.P9, Panchayat Muchalika that they have joined and started living together on 17.05.2004. Therefore, it is possible and believable that thereafter on 06.07.2004, there was a domestic unrest between the husband and the wife and therefore, P.W.1's evidence that in the process, the husband hit his wife is believable. However, since injuries were simple in nature and the prosecution failed to produce the material object, namely, the wooden log, the Appellate Court considering the nature of the injuries and the evidence of P.W.8, the Doctor and the wound certificate - Ex.P4, found that the charge that the petitioner had as a matter of fact caused injuries to P.W.1 as proved. The lower appellate court therefore convicted the petitioner of the lesser offence, that is, under Section 323 of Indian Penal Code and imposed a punishment six months imprisonment and fine of Rs.1,000/-. The petitioner has laid this Revision Case before this Court, being aggrieved by the judgment of the lower Appellate Court.

6. Mr.J.Hariharan, learned Counsel appearing for the petitioner would take this Court through the evidence of P.W.1 and submit that firstly, there are contradictions in the evidence of P.W.1 regarding the time of the alleged occurrence. At one place, it is mentioned as 12'o clock, while in the evidence, it is mentioned as 4.00 P.M. Therefore, the very



occurrence itself is doubtful and the contradiction goes to the root of the matter. Secondly, even as per the finding of the lower Appellate Court, neighbours witnessed the incident and throughout the investigation not even one of the neighbours who had seen the incident were examined or produced as a witness. Thirdly, the lower Appellate Court also found that the weapon alleged to have been used by the petitioner namely, wooden log was not produced and therefore, once it found that the evidence of P.W.1 untrustworthy in respect of other allegations, it ought not to have relied upon the evidence of P.W.1, regarding the injuries alone, for the purpose of convicting and therefore, he would submit that the Appellate Court ought to have acquitted the petitioner also in toto.

7. Per contra, the learned Government Advocate (Criminal Side) would submit that as far as the allegations of dowry harassment and cruelty is concerned, there was direct evidence only of P.W.1 and therefore, upon being found that her evidence was shaky and it did not inspire the confidence of the Court the accused were acquitted. As far as the offence of causing injuries is concerned, there were corroborating evidences of the Doctor, coupled with the fact that she was admitted into the hospital. P.W.1's evidence should be relied upon, as far as the injuries is concerned and therefore, he would submit that the lower Appellate Court had rightly convicted the accused.

8. I have considered the rival submissions made by the learned Counsel on both the sides on record and also the material evidence on record. It has to be seen that the first Appellate Court, while acquitting the accused for all the other charges, has taken into account (a) the reliable part of the evidence of P.W.1 that she was hit by the petitioner/accused namely her husband; (b) the circumstance that she had narrated so at the earliest point of time, which is reflected in the A.R copy, which is marked as Ex.P5; third, the wound certificate is marked as Ex.P4 and the Doctor, who treated P.W.1 was examined as P.W.8 and therefore, when the Appellate Court, in exercise of its appellate powers, has reappraised the entire evidence and found that it is only the petitioner who has caused the injury on P.W.1 and has convicted the accused for the lesser offence under Section 323 of I.P.C, as the injuries were simple in nature and the prosecution did not produce and mark the weapon namely, wooden log, no ground is made out, for this Court to interfere in the revisional jurisdiction. I find that the findings of the Appellate Court can never be treated as perverse or without any evidence and therefore, I confirm the conviction of the petitioner for the offence under Section 323 of I.P.C.

9. However, considering the fact that the occurrence is of the year 2004, considering the nature of the injuries i.e.,



three injuries of the simple in nature, considering the finding of the Courts below which point out to the domestic unrest between the husband and wife, considering the fact that the petitioner herein was arrested and was in jail for a period of 10 days pending trial, I am inclined to modify the sentence of imprisonment alone, which is imposed by the lower Appellate Court from six months Simple Imprisonment to that of the period already undergone. The fine amount imposed by the lower Appellate Court is confirmed.

10. The Criminal Revision Case is partly allowed as aforesaid.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

grs

To

1. The Additional District and Sessions Judge, Krishnagiri
2. The Chief Judicial Magistrate, Krishnagiri.
3. The Public Prosecutor,
High Court of Madras.
4. The Inspector of Police,
AWPS, Burgur,
Krishnagiri District.

+1cc to M/s.V.Nicholas, Advocate, S.R.No.64147

+1cc to M/s.H.Maruthiraj, Advocate, S.R.No.64221

Crl.R.C.No.1064 of 2014

KSM(CO)
RGA(16/12/2021)