



Bail Slip

The Petitioner/Accused namely Murali S/o. Chinnamunusamy in C.C. No. 33/2013 dated 14.09.2016 on the file of the Judicial Magistrate-I, Hosur, Krishnagiri District he was released on bail as per the order of this Hon'ble Court dated 15.06.2017 in CrI.M.P.No.5925 & 5926/2017 in CrI.R.C.No.651/2017.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2021

CORAM:

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

CrI.R.C.No.651 of 2017

Murali

...Petitioner

Vs.

State rep. by
The Inspector of Police,
All Women Police Station,
Hosur, Krishnagiri District.
(Crime No.7 of 2013)

...Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C praying to call for the records pertaining to the judgment in C.A.No.28 of 2016 dated 16.03.2017 passed by the Learned Additional District and Sessions Judge, Krishnagiri confirming the judgment in C.C.No.33 of 2013 dated 14-09-2016 passed by the learned Judicial Magistrate-I, Hosur, Krishnagiri District convicting the petitioner under Section 498-A IPC sentencing him to undergo rigorous imprisonment for one year, imposing a fine of Rs.2,000/- in default to undergo simple imprisonment for three months and convicting the petitioner under Section 506(i) IPC imposing a fine of Rs.1,000/- in default to undergo simple imprisonment for one month, set aside the same.

For Petitioner : Mr.A.Balamurugan

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



O R D E R

This Criminal Revision Case has been preferred challenging the judgment of the learned Additional District and Sessions Judge, Krishnagiri dated 16.03.2017 passed in C.A.No.28 of 2016 confirming the judgment of the learned Judicial Magistrate-I, Hosur dated 14.09.2016 made in C.C.No.33 of 2013.

2. The de facto complainant is the wife of the first accused and after marriage they lived together as husband and wife in the house of the first accused as joint family. The de facto complainant has alleged that the first accused had married the second accused and ill-treated her.

3. On the complaint given by PW1 (de facto complainant), PW8/Chithradevi-Inspector of Police registered a case in Crime No.7 of 2013 under Section 498(A) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. PW8 took up the case for investigation examined the witnesses, visited the place of occurrence, prepared observation mahazar (Ex.P5) and rough sketch (Ex.P6) in the presence of witnesses, arrested the accused and sent him to remand, completed her investigation and filed the charge sheet against the accused under Sections, 498(A), 494, 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. After the case was taken on file and on being satisfied the materials produced before the Court, the learned Trial Judge has framed the charges against the accused under Sections 498(A), 494, 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. Since the accused pleaded innocence and claimed to be tried, trial was conducted.

4. On the side of the prosecution, eight witnesses have been examined as PW1 to PW8 and six documents were marked as Exs.P1 to P6. No witness was examined and no document was marked on the side of the defence. At the conclusion of the trial and on considering the evidences available on record, the learned Trial Judge had convicted the first accused alone for the offence under Sections 498(A) and 506(i) IPC and convicted and sentenced him to undergo one year rigorous imprisonment and imposed a fine of Rs.2,000/- in default to undergo three months simple imprisonment for the offence under Section 498(A) IPC and to pay a fine of Rs.1000/- in default to undergo one month simple imprisonment for the offence under Section 506(i) IPC. The first accused was acquitted from rest of the charges and the second accused was acquitted from the entire charges. The



appeal filed by the first accused was also dismissed by the learned Additional District and Sessions Judge, Krishnagiri. Aggrieved over the judgment of the learned Sessions Judge, the first accused has preferred the present revision.

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5. Today when the matter was called, the de facto complainant[PW1] and the accused were present before this Court and they were identified by Ms.A.Sudha, Gr-I police, AWPS, Hosur.

6. When the revision case is pending, the learned counsel for the revision petitioner filed a Joint Compromise Memo stating that the de facto complainant and the first accused have rejoined and they are living together with their children as one family. The learned counsel for the revision petitioner requested to compound the case, but it is seen that the offence under Section 498(A) IPC, in which the first accused has been convicted, is non compoundable. The learned counsel for the revision petitioner submitted that despite the offence being a non compoundable offence, this Court can exercise its inherent jurisdiction under Section 482 Cr.P.C and pass appropriate orders. He invited the attention of this Court to the judgment of the Hon'ble Supreme Court in the case of Ramgopal and Anr Vs. The State of Madhya Pradesh reported in LL 2021 SC 516 in support of his contention that if the criminal proceedings involved non heinous offence and it is private in nature, the High Court can exercise its power to compound the matter. In the above said judgment, it is observed as under:-

"13. It appears to us that criminal proceedings involving nonheinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and



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fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in *Narinder Singh & Ors. vs. State of Punjab & Ors.*³ and *Laxmi Narayan (Supra)*.

14. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

15. Given these settled parameters, the order of the High Court of Madhya Pradesh culminating into Criminal Appeal No. 1489 of 2012, to the extent it holds that the High Court does not have power to compound a noncompoundable offence, is in ignorance of its inherent powers under Section 482 Cr.P.C. and is, thus, unsustainable. However, the judgment and order dated 9th January, 2009 of the High Court of Karnataka, giving rise to Criminal Appeal No. 1488 of 2012 cannot be faulted with on this count for the reason that the parties did not bring any compromise/settlement to the notice of the High Court."

7. The present case has been given by the wife of the first accused and the allegation is that the first accused had married the second accused while his first marriage is in subsistence. He had ill treated and driven her out from the house. Now it seems that the couples have settled the misunderstanding between themselves and worked out a settlement. It is pertinent to note that the second accused, whom the first



accused is said have got married, was acquitted on the ground that there was no marriage between the first and second accused. Now, the de facto complainant, having understood the real circumstances, had agreed to live with the first accused and it seems that they are living as one family under one roof along with their children. In fact, this is exactly a case, which is private in nature and disposing the matter in view of the compromise entered into between the de facto complainant and the accused would not cause any harmful effect on the social and moral fabric of the society. Though the offence under Section 498(A) IPC is non compoundable, it is always open to the de facto complainant (wife) to condone the acts of her husband and opt to live together with him. It seems that the de facto complainant of this case has also chosen the said option and presently she is living with him. The pendency of this case can disrupt the harmony between the couples. Further, taking into consideration of the reunion between the couples, I feel that this matter can be disposed of as settled between the parties.

8. In the result, this Criminal Revision Case is disposed of in terms of compromise.

(* Joint Memo of Compromise Xerox copies enclosed)

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmi

To

1.The Additional District and Sessions Judge,
Krishnagiri.

2. The Chief Judicial Magistrate
Krishnagiri (for information)

3.The Judicial Magistrate-I,
Hosur, Krishnagiri District.

4.The Inspector of Police,
All Women Police Station,
Hosur, Krishnagiri District.



5.The Public Prosecutor,
High Court of Madras,
Chennai-600 104.

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+1 CC to Mr.A.Balamurugan, Advocate sr 66246.

Cr1.R.C.No.651 of 2017

JPL (CO)
SP (27/01/2022)