



BAIL SLIP

The Petitioner/Accused No.1, Viz., Periyasami, S/o Ganesan was directed to be released on bail as per order of this Court, dated 10.10.2019 made in Crl.M.P.No.14452 of 2019 in Crl.R.C.No.1058 of 2019.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CRL.R.C.NO.1058 OF 2019

Periyasami

...Petitioner

Vs.

State represented by,
The Inspector of Police,
All Women Police Station,
Vaniyambadi

...Respondent

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure seeking to set aside the judgment passed by the learned III Additional District and Sessions Judge, Vellore, in C.A.No.23 of 2015 dated 01.08.2019 partly confirming the sentence imposed by the learned Principal District Munsif-cum-Judicial Magistrate, Vaniyambadi, in C.C.No.38 of 2005 dated 25.09.2015.

For Petitioner : Mr.C.Anbu
for M/s.M.R.Thangavel

For Respondent : Mr.S.Sugendran
Government Advocate (Crl.Side)

ORDER

This criminal revision has been filed against the judgment passed by the learned III Additional District and Sessions Judge, Vellore, in C.A.No.23 of 2015 dated 01.08.2019 partly



confirming the sentence imposed by the learned Principal District Munsif-cum-Judicial Magistrate, Vaniyambadi, in C.C.No.38 of 2005 dated 25.09.2015.

2 Case of the prosecution is that the victim was having contact with A1 from the year 1993 and in the year 1994 she went to Saudi Arabia for job and from there she sent around Rs.2.00 lakhs to the petitioner/A1 and when she returned her native she brought 45 sovereigns of gold and married the petitioner A1 by giving the above jewels as dowry. Both of them lived happily for two years and thereafter, the petitioner/A1 demanded more dowry and he along with his family members beaten the defacto complainant. Further, the petitioner married with A6, while the first marriage with the defacto complainant is in force. Hence, the present complaint was preferred against the petitioner and his family members.

3 The respondent police registered a case against the petitioner and others for the offence under Section 498(A) of IPC r/w Sections 4 and 6 of Dowry Prohibition Act and Section 494, 406 and 506(ii) of IPC and after completing investigation, laid a charge sheet before the learned Principal District Munsif-cum-Judicial Magistratem, Vaniyambadi, Vellore District, which was taken on file in C.C.No.38 of 2005. The learned Magistrate, on completion of trial, convicted the accused 1 to 5 and sentenced them to undergo rigorous imprisonment for a period of one year with fine of Rs.1000/- each, in default, to undergo simple imprisonment for a further period of one month each for the offence under Section 498(A) IPC, A1 to A5 to undergo rigorous imprisonment for a period of six months with fine of Rs.500/- each, in default, to undergo simple imprisonment for a further period of two weeks for each default for the offence under Section 4 of Dowry Prohibition Act, A1 to A5 to undergo rigorous imprisonment for a period of 1½ years for the offence under Section 506(ii) IPC, the petitioner/A1 to undergo rigorous imprisonment for a period of 2 years with fine of Rs.1000/-, in default, to undergo simple imprisonment for a period of one month, A2 to A6 to undergo rigorous imprisonment for a period of 2 years with fine of Rs.1000/- each, in default, to undergo simple imprisonment for a further period of one month for each default for the offence under Section 494 r/w 109 of IPC. Challenging the said judgment of conviction and sentence, A1 to A6 have preferred an appeal in C.A.No.23 of 2015 and the learned III Additional District and Sessions Judge, Vellore @ Tirupattur, after hearing the arguments advanced on either side, by judgment dated 01.08.2019 modified the judgment of conviction passed by the trial Court, confirming the conviction against the petitioner/A1 for the offence under Section 498(A) alone and acquitted him from all other charges and also acquitted A2 to A6



from all the charges. Being not satisfied with the modification of the lower appellate Court, the petitioner/A1 is now before this Court with the present criminal revision case.

4 The learned counsel appearing for the petitioner would submit that ingredients Section 498 (A) has not made out from the evidence of prosecution witnesses. There is no independent witness and all are only interested witnesses. There is contradictions in the evidence of P.W.1 regarding filing of complaint Ex.P1. Hence the origin of the case itself is doubtful. Even though, the trial Court convicted all the accused, the lower appellate acquitted A2 to A6 from all the charges and acquitted this petitioner/A1 from all the other charges, but, convicted only for the offence under Section 498 (A) of IPC. When the lower appellate Court acquitted the petitioner/A1 for the offence under Section 4 of Dowry Prohibition Act, ought to have acquitted for the offence under Section 498(A) also. Prosecution has failed to prove its case beyond all reasonable doubt against the petitioner for the offence under Section 498(A) IPC and the lower appellate Court wrongly confirmed the conviction against the petitioner for the offence under Section 498(A), without any substantial evidence or material, which warrants interference of this Court.

5 The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that P.W.1 is the victim in this case and she married A1 by giving sufficient dowry stated in the complaint, but, the petitioner/A1 and his family members demanded more dowry and since P.W.1 could not meet out the same, A2 to A5 have conducted 2nd marriage to the petitioner/A1 with A6. The accused A1 to A5 demanded dowry and caused cruelty to P.W.1 and hence P.W.1 made complaint. P.W.1, the victim has clearly spoken about the demand of the dowry and the cruelty caused by the accused. Even though, the trial Court has convicted all the accused, the lower appellate Court found that materials produced by the prosecution are not sufficient to convict the other accused and hence acquitted the other accused and the petitioner also except Section 498(A) of IPC. The judgment of the lower appellate Court does not call for any interference.

6 Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials available on record.

7 This Court, while exercising revisional jurisdiction, cannot exercise power of the Appellate Court and this Court, being a revisional Court, cannot sit in the arm chair of appellate Court and it has no power to re-assess the evidence



and substitute its views on findings of fact. It can only see whether there is any perversity in appreciation of evidence by the Courts below.

8 A careful reading of the materials placed before this Court, it is seen that P.W.1, who is the victim, has clearly deposed the entire incident and the demand of dowry and the cruelty caused by the accused. There is no reason to disbelieve or discord the evidence of P.W.1.

9 Further, on a careful reading of the judgments of both the Courts below and the materials placed before this Court, it is clear that prosecution has proved its case beyond all reasonable doubt against the the petitioner/A1 for the offence under Section 498(A). Even though, the trial Court convicted all the accused for all the charges, the lower appellate Court being a final Court of fact finding has re-appreciated the entire evidence and acquitted all the accused from all the charges and only confirmed the conviction against the petitioner/A1 for the offence under Section 498(A) of IPC. There is no merit in the revision and the same is liable to be dismissed. Further, neither the victim nor the State has filed any appeal against acquittal of the other accused and the acquittal of the petitioner/A1 for the other charges.

10 In the result, this criminal revision shall stand dismissed. The trial Court is directed to secure the revision petitioner to undergo remaining period of imprisonment, if any.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The III Additional District and Sessions Judge,
Vellore.
2. The Principal District Munsif-cum-Judicial Magistrate,
Vaniyambadi.



3. The Inspector of Police, All Women Police Station,
Vaniyambadi

4. The Public Prosecutor,
High Court of Madras.

5. The Superintendent ,
Central Prison,
Vellore.

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

+1CC to Mr.C.Anbu, Advocate, Sr.No.41152

CrI.R.C.No.1058 of 2019

PA (CO)

K.RK. (17.11.2021)