



BAIL SLIP

The Petitioner / Accused (A1) namely Pradeep, S/o.Gajendiran was released on bail by the order of this court dated 19.12.2019 and the Petitioners / Accused A2 and A3 namely Gajendiran, S/o.Arumugam and Porkilaikrishnaveni, W/o.Gajendiran were released on bail by the order of this court dated 11.12.2019 were made in Crl.M.P.Nos.18257 of 2019 and 18258 of 2019 in Crl.R.C.No.1383 of 2019.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.08.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.No.1383 of 2019

1. Pradeep
S/o, Gajendiran

2. Gajendiran
S/o, Arumugam

3. Porkilaikrishnaveni,
W/o, Gajendiran

...Petitioners/Appellants/
Accused 1 to 3

Versus

State - Represented by
The Station House Officer,
PCR Cell,
Puducherry.

...Respondent/Respondents/
Complainant

PRAYER: Criminal Revision Case filed under Section 397 of the Code of Criminal Procedure, to call for the entire records in so far relates to the order passed in C.A.No.36 of 2016, dated 08.11.2019 on the file of the II Additional Sessions Judge, at Puducherry, whereby modified the order passed by the Chief Judicial Magistrate at Puducherry in C.C.No.56 of 2013 dated 14.09.2016 and set aside the same.

For Petitioner : Mr.Rajkumar
for M/s.R.Hemalatha

For Respondent : Mr.D.Bharatha Chakravarthy
Public Prosecutor (Pondicherry)



ORDER

This Criminal Revision Case has been filed to call for the entire records relates to the order passed in C.A.No.36 of 2016, dated 08.11.2019 on the file of the II Additional Sessions Judge, at Puducherry, whereby modified the order passed by the Chief Judicial Magistrate at Puducherry in C.C.No.56 of 2013 dated 14.09.2016 and set aside the same.

2. The respondent police registered a case against the petitioners for the offences under sections 471, 493, 506(ii) IPC r/w 34 IPC and 7(1)(d) of PCR Act and after investigation altered the sections against the accused as 417 IPC and 7(i)(d) of PCR Act r/w 34 IPC and laid a charge sheet before the Chief Judicial Magistrate, Puducherry and the learned Magistrate has taken the case on file in C.C.No.56 of 2013. After completing the formalities under 207 Cr.P.C., framed the charges against the petitioners for the offences under section 417 IPC and section 7(1)(d) of PCR Act r/w section 34 of IPC. After framing charges, in order to prove the case of the prosecution, on the side of the prosecution, during trial, as many as 14 witnesses were examined as P.Ws.1 to 14 and 12 documents were marked as Exs.P1 to P12. Besides that, five material objects were also exhibited as M.O.Nos.1 to 5. After trial, the learned Chief Judicial Magistrate, Puducherry convicted the petitioners for the offence under sections 417 IPC and Sec.7(1)(d) of PCR Act r/w 34 IPC and sentenced to undergo one year Rigorous Imprisonment each and to pay a fine of Rs.500/- and also they were convicted and sentenced to undergo six months Rigorous Imprisonment and to pay a fine of Rs.500/- for the offences under section 417 IPC and section 7(1)(d) of PCR Act r/w 34 IPC respectively, in default to undergo one month Simple Imprisonment on each section and the sentences shall run concurrently.

3. Challenging the said judgment of conviction and sentence passed by the Chief Judicial Magistrate, Puducherry, the petitioners have filed the appeal before the Chief Judge, Puducherry in Criminal Appeal No.36 of 2016. The learned Chief Judge, made over the appeal to the II Additional Sessions Judge, Puducherry. The learned II Additional Sessions Judge at Puducherry after hearing the arguments and perused the records, confirmed the conviction and sentence passed by the Chief Judicial Magistrate against A1 for the offence under section 417 IPC and however not found guilt of the second and third petitioners for the offence under section 417 r/w 34 IPC and set aside the conviction and sentence passed by the Magistrate for the above section against A2 and A3. However found guilt of the offences punishable under section 7(1)(d) of PCR Act and confirmed the conviction and sentence passed by the trial court



for the offences under section 7(1)(d) of PCR Act against all the petitioners. Now challenging the said judgment of the trial court, the petitioners have filed the present Revision before this Court.

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4. Though the Revision Case is pending for three years and since this Court granted suspension of sentence, taking advantage of the same, the petitioners are not ready to dispose the Revision. This Court perused the grounds of Revision filed by the petitioners and heard the learned Public Prosecutor (Pondicherry).

5. The case of the prosecution is that P.W.1 and A1 are classmates when they were studying in school and later they developed their close relationship. P.W.1 believed that A1 would marry her and A1 had physical relationship saying that he would convince his parents to marry her. Later A1 refused to marry her by indicating her caste and his parents also rejected her marriage proposal for the same reason. P.W.1 approached A1's parents, they abused her with filthy language. Hence the complaint.

6. The main allegation against the first petitioner is that A1 fall on love with P.W.1 and promised to marry her and had a physical relationship with her. Subsequently A1 refused to marry P.W.1 by indicating her caste. In order to substantiate the charges framed against the petitioners, on the side of the prosecution, totally 14 witnesses were examined and 12 documents were marked and five material objects were also marked. P.W.1 is the victim as well as the defacto complainant. Victim was examined as P.W.1 she clearly deposed that A1 had fallen love with P.W.1 and had physical relationship and promised to marry her. Subsequently, he refused to marry her, because she belongs to member of the Schedule Caste Community. Therefore, she filed a complaint before the respondent police and the respondent police registered the case and investigated the matter. P.Ws.2 and 3 also corroborated the same. P.W.5 is the independent witness, who has corroborated the evidence of P.W.1 and other witnesses also supported the case of the prosecution. P.W.12 is the Tahsildar who issued the certificate about P.W.1. who belongs to the scheduled caste community. The trial court appreciated the prosecution evidence especially the evidence of P.W.1 that A1 had intimacy with P.W.1 and promised to marry her and subsequently refused to marry her indicating the caste of P.W.1.

7. Though the trial court convicted the second and third petitioners for the offence under section 417 IPC, the appellate court reversed the finding against second and third petitioner. However hoping prosecution clause under section 12 of PCR Act,



all the petitioners knowing fully well that P.W.1 belongs to the member of Scheduled Caste Community and they refused the marriage proposal and humiliated their caste name saying the reason that she belong to Scheduled Caste. Therefore, invoked the presumption clause under 12 of PCR Act and convicted them for the offence under section 7(1)(d) of PCR Act.

8. The scope of the revision is very limited and the revisional court while dealing with the revision has to see as to whether there is any perversity in the appreciation of evidence in the judgment. It is a well settled proposition of law that the Revisional Court cannot sit in the arm chair of the appellate court and reappreciate the entire materials. Therefore, this Court has to see is there any perversity in the appreciation of the materials.

9. On a reading of the entire materials which clearly shows that A1 had fallen on love with P.W.1 and had a physical relationship and intimacy with P.W.1 and subsequently refused to marry her. A2 and A3 also knowing fully well about the relationship between A1 and P.W.1. The case of P.W.1 is that the petitioners refused the marriage proposal indicating her caste name and therefore both the courts below rightly appreciated the evidence and convicted the petitioners and passed the order. Therefore, this Court does not find any perversity in the findings of the both the Courts below. There is no merit in the Revision and the same is liable to be dismissed. Accordingly the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

mfa

To

1. The II Additional Sessions Judge,
II Additional Sessions Court,
Puducherry.
2. The Chief Judicial Magistrate,
Chief Judicial Magistrate Court,
Puducherry.



3. The Station House Officer,
PCR Cell, Puducherry.

4. The Public Prosecutor,
Pondicherry.

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Copy to

The Section Officer,
Criminal Section (Records)
High Court,
Madras.

CRL.R.C.No.1383 of 2019

JP-II (CO)
RGA (26/10/2021)