



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 01.09.2021

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.RC(MD)No.422 of 2021

Kannan

: Petitioner/Appellant/
1st Accused

Vs.

State rep. by
The Inspector of Police,
Radhapuram Police Station,
Tirunelveli District.
Crime No.90 of 2013

: Respondent/Respondent/
Complainant

Prayer: Criminal Revision filed under section 397 r/w 401 of the Code of the Criminal Procedure, against the judgment made by the learned III Additional Sessions Judge, Tirunelveli, in Criminal Appeal No.89 of 2019, dated, 29/01/2021 upholding the judgment of conviction and sentence made by the learned Judicial Magistrate, Valliyoor, in CC No.54 of 2014, dated 22.04.2019.

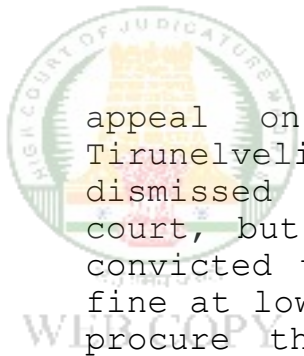
For Petitioner : Mr.Joseph Jerry
for Mr.W.Pamelin

For Respondent : Mr.RMS.Sethuraman
Counsel for State Government
(Criminal side)

O R D E R

This Criminal Revision is filed against the judgment made by the learned III Additional Sessions Judge, Tirunelveli, in Criminal Appeal No.89 of 2019, dated, upholding the judgment of conviction and sentence made by the learned Judicial Magistrate, Valliyoor, in CC No.54 of 2014, dated 22.04.2019.

2.It reveals from the records on the complaint received from the wife of the petitioner, a case in Crime No.90 of 2013 was registered on 26.05.2013 for the offence under sections 498(A), 323, 506(i) IPC as against the petitioner/A1 and his family members on the ground of demand of dowry and for attacking the de-facto complainant. After completing investigation, the respondent police filed a final report before the Judicial Magistrate, Valliyoor and it was taken on file as CC No.54 of 2014. The learned Judicial Magistrate, after culmination of trial wherein the prosecution examined PW1 to PW8 and marked Exs.P1 to P5, acquitted A2 and A5, while convicted the petitioner/A1 for the offence under section 323 IPC and sentenced him to under Imprisonment for 10 days and imposed a fine of Rs.500/-, in default to undergo Simple imprisonment for two days. Aggrieved by the said order, the petitioner preferred



appeal on the file of the III Additional Sessions Judge, Tirunelveli, in Cr.A No.89 of 2019. The First Appellate Judge dismissed the appeal, by confirmed the conviction of the trial court, but the sentence is modified as such that petitioner/A1 is convicted till the raise of the Court and if the accused has paid fine at lower court, the same is confirmed and the trial court shall procure the accused to undergo the sentence as above. Being aggrieved by the by the impugned order of courts below, the petitioner/A1 is before this court.

3.The learned counsel appearing for the petitioner/A1 argued that in the case of demand of dowry itself is false, the sequential act of the alleged slapping ought not to have been given much credence and the arrival of PW2 was not stated by the de-facto complainant in her complaint and in the FIR, it was not stated that the petitioner/A1 slapped on her face and there is nothing about stamping on the stomach and there are contradictions in the evidence of PW1 and the Doctor, PW5 and prays that the criminal revision has to be allowed.

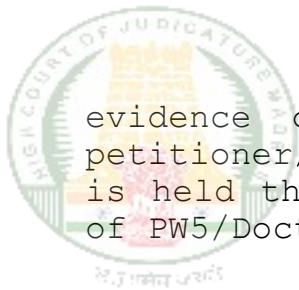
4.On the other hand, the learned Standing Counsel appearing for the respondent/State argued that the courts below after proper appreciation of the facts, passed the correct order, which do not require any interference of this court and prays for dismissal of the criminal revision.

5.Heard the learned counsel appearing on either side and perused the materials available on record.

6.In this case, the victim was examined as PW1. PW1 in her complaint and evidence stated that on 24.05.2013, her husband demanded dowry and slapped on her cheek and then, she fell down and her husband stamped on her stomach with legs and due to it, there was bleeding from her private part and she informed the occurrence to her brother and her brother came to the place of occurrence and took her to the Government Hospital and then police came and recorded her statement. Hence, the evidence of PW1 is corroborated with the contents found in Ex.P1.

7.In this case, there was no eye witness. The Doctor, who gave treatment to PW1 was examined as PW5. PW5 deposed that PW1 told him that on 24.05.2013 at 4.00 pm, she was assaulted by a known person with hands at her residence and he found that there is a contusion present in left cheek and there is a vaginal bleeding and he certified that the injury is simple in nature.

8.From the evidence of PW5/Doctor, it is seen that there is a contusion on the left cheek of the victim (PW1). PW1 in her complaint and evidence stated that her husband in his hand, slapped on her left cheek. Further, PW5/Doctor found that there was bleeding from her private part due to periods. Hence, from the



evidence of PW1 and PW5, it reveals that on 24.05.2013, the petitioner/A1 slapped on the cheek of PW1 with hands. Therefore, it is held that the evidence of PW1 is corroborated with the evidence of PW5/Doctor.

9.The learned counsel appearing for the petitioner/A1 submitted that the petitioner/A1 is working as Headmaster and if any punishment imposed on him, it will affect his profession and hence, lesser punishment may be given, if the Court found that the petitioner/A1 committed the offence.

10.Considering the facts and circumstances of the case and also considering the submission made by the learned counsel appearing for the petitioner/A1, this Court, while sustaining the conviction, modified the sentence as to fine alone.

11.Accordingly, this Criminal Revision is disposed of.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

1.The III Additional Sessions Judge,
Tirunelveli.

2.The Judicial Magistrate,
Valliyoar.

3.The Inspector of Police,
Radhapuram Police Station,Tirunelveli District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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01.09.2021

RK (24.09.2021) 3P 5C