



BAIL SLIP

The Petitioner/Accused viz 1.Sampoornammal F/76 years (A1) W/o.Late Jayavelu, 2.Ganesan, M/51 years (A2), S/o.Late Jayavelu, 3.Purusothaman, M/33 years (A3), S/o Late.Jayavelu, 4.Dharani F/48 Years (A4) W/o.Subramani were released on bail as per order of this Court dated 14/05/2015 in CrI.M.P.No.1 of 2015 in CrI.R.C.No.472 of 2015 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.RC.No.472 of 2015

1. Sampoornammal
2. Ganesan
3. Purusothaman
4. Dharani

.. Petitioners

Vs.

State Rep by Sub Inspector of Police
All Women Police Station, Arakonam
Crime No.2 of 1999.

.. Respondent

Prayer: Criminal Revision Petition has been filed under Sections 397 and 407 of the Code of Criminal Procedure, to set aside the conviction imposed in the judgment dated 23.04.2015 made in C.A.No.111 of 2013 on the file of the learned II Additional District & Sessions Judge, Vellore at Ranipet, Vellore District wherein the conviction and sentence was confirmed, which was imposed by the learned Judicial Magistrate at Arakonam, Vellore District by judgment dated 22.10.2013 in C.C.No.147 of 1999 for the offence under Section 498-A IPC.

For Petitioners : Mr.P.Nagaraju

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



O R D E R

The Criminal Revision Petition has been filed to set aside the conviction and sentence imposed in the judgment dated 23.04.2015 made in C.A.No.111 of 2013 on the file of the learned II Additional District & Sessions Judge, Vellore confirming the conviction and sentence imposed by the learned Judicial Magistrate, Arakonam, by judgment dated 22.10.2013 in C.C.No.147 of 1999 for the offence under Section 498-A IPC.

2. The petitioners, accused in C.C.No.147 of 1999, were convicted by the Trial Court for the offences under Section 498-A, IPC and Sections 4 and 6(2) of the Dowry Prohibition Act, 1961 and sentenced to undergo one year simple imprisonment with a fine of Rs.1,000/- each. Therefore, they preferred an appeal to the learned II Additional District & Sessions Judge, Vellore in C.A.No.111 of 2013. The learned II Additional District & Sessions Judge, Vellore dismissed the appeal by judgment dated 23.04.2015 confirming the conviction and sentence.

3. The gist of the case is that PW1, defacto complainant, is the estranged wife of the second petitioner, A2. Their marriage was an arranged marriage and it was conducted on 12.09.1991. The petitioners 1, 3 and 4, who are A1, A3 and A4, are respectively the mother-in-law, brother-in-law and sister-in-law of the victim defacto complainant. After the marriage, the second petitioner - A2 and the defacto complainant were residing at Thanigaipolur village along with other accused namely, A1 and A3. A4, the sister-in-law of the victim, who is married, is residing at Thiruthani with her family, on occasions used to visit her mother's place at Thanigaipolur.

4. During the year 1992, PW1 left the matrimonial home, unable to bare the cruelty forced on her by A1 to A3. Even on the day of marriage, without informing anybody, A2 had left the marriage hall merely on the ground that the demand of TVS-50 motor vehicle as dowry has not been met. Four days thereafter, he had come back and for some time, A2 and PW1 were living together.

5. During the marriage, eight and a half sovereign of gold jewels and household articles were given to PW1 as dowry and the entire marriage cost was borne by PW2. All the accused jointly demanded Rs.25,000/- as dowry from PW1. PW1 informed A2 that her parents had no means to pay such huge demand of dowry, for which, she was physically assaulted and was not provided with proper food. When she was pregnant, she was not given



nutritious food and she was made to suffer. When she was three months' pregnant, A1, mother-in-law of PW1, gave her a drink informing that it was good for her health and A2, her husband forced her to drink it. After drinking the same, within few hours, she suffered severe stomach ache and bleeding. When PW1 was rushed to the hospital, she was informed that her pregnancy is aborted. Thereafter, PW1 left A2 and lived with her elder sister PW3. A2 used to regularly visit her there, also he demanded Rs.5,000/- from her for his business.

6. After some time, PW1 rejoined with A2 and they were living together. Again, when she was pregnant of eight months, A1 and A2 returning home after attending a relative marriage, comparing the dowry and sridhana presented in the marriage, demanded more dowry from PW1 and threatened her that A2 would have a second marriage like his nephew. When arguments heated, A2 physically assaulted PW1, kicked her, due to which, she had a forced delivery of a stillborn child. Unable to bear cruelty any further, she lodged a complaint to the respondent police, sent petitions to the Chief Minister's Cell and other authorities.

7. A case was registered, charge sheet filed, during trial PW1 to PW15 examined on the side of prosecution and four documents Exhibits P1 to P4, marked. On the side of defence, two documents marked, Exhibits D1 and D2. On completion of the trial, the Trial Court convicted the petitioners, confirmed by the Sessions Court, as above, against which the present Revision Petition is filed.

8. The contention of the petitioners is that PW1 - defacto complainant is the estranged wife of the second petitioner, PW2 to PW5 are the father, sister, brother-in-law and brother of PW1 respectively, PW6 to PW8, PW11 and PW12 are the neighbours of the accused, PW13 is the Investigating Officer and PW14 is the doctor and except for PW1 and PW3, none of the witnesses have stated anything about the petitioners. The entire statement of PW1 is to wreak vengeance, without any particulars.

9. They further submit that the evidence of PW3, sister of PW1, in whose house PW1 was staying for quite some time, her evidence is contradictory with evidence of PW1. PW2, father of PW1 states that he was informed by PW1 and PW3 about the demand of dowry and the cruelty. Both PW1 and PW3 not stated anything about informing the same to PW2. In view of the same, PW2 evidence is a hearsay, cannot be considered. PW1 and PW3 state that two abortions had taken place when PW1 was staying in PW3's



house. PW4, who was also residing in the same house, state that he doesn't know about any such happenings. PW5, the mother of PW1 stated nothing about the demand of dowry nor the cruelty inflicted by the accused.

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10. The other witnesses not supported the case of the prosecution. The evidence of PW14, the doctor, is noway helpful to the prosecution case, she states that she was not aware about any Geetha (PW1) taking treatment at the Government Hospital, Arakonam. It was further submitted that PW15, the Investigating Officer had not conducted proper investigation, since A2 had tiff with the Deputy Superintendent of Police, for which he was beaten and dragged in public road. A2 sent representation to various authorities against the inhuman treatment. It was further submitted that a compliant was earlier lodged before the All Women Police, Arakonam in the year 1994 and thereafter, another complaint in the year 1999 before the All Women Police, Vellore.

11. According to the petitioners, they were charged at first for the offences under Section 498-A, IPC and Section 4 of the Dowry Prohibition Act. The maximum sentence for both the offences is three years. Hence, the present case is barred by limitation in support of his submissions, learned counsel for the petitioners relied an Apex Court judgment in Manju Ram Kalita v. State of Assam [C.A.No.299 of 2003] and the judgment of this Court in R.Jeeva and others v. Inspector of Police and others [Crl.R.c.No.570 of 2013].

12. He further submitted that admittedly, in this case, the complaint has been lodged in the year 1999 for the alleged occurrence of the year 1994, after five years. As per Section 468, the complaint ought to have been made within a period of three years. Hence, it is barred by limitation and this case cannot be proceeded against the petitioners. The Trial Court failed to consider the evidence of the witnesses in its proper manner, and convicted the petitioners. The Lower Appellate Court failed to independently assess evidence of the witnesses and materials produced and dismissed the appeal.

13. Learned Additional Public Prosecutor submits that a complaint of PW1 defacto complainant, FIR registered by PW13. She conducted initial investigation and thereafter PW15 took up investigation, examined the witnesses and collected documents. PW1 had given a detailed statement about the demand of dowry and the way she was subjected to cruelty, due to which, she underwent abortion twice forcibly. The statements of PW2 to PW4,



the father, sister and brother-in-law of PW1 corroborated with each other. Since the other private witnesses were neighbours of the accused, they had not supported the case of the prosecution. The evidence of PW1 and PW3 confirms the demand of dowry and cruelty.

14. The Trial Court as well as the Lower Appellate Court considered the evidence and had rightly convicted the petitioners. The allegation of the second petitioner against the then Deputy Superintendent of Police considered by the Trial Court. The conviction of the petitioners by the Trial Court confirmed by the Lower Appellate Court. Hence, prayed for dismissal of the Revision case.

15. Considering the rival submissions and on perusal of the materials, it is seen that the marriage of the second petitioner and the defacto complainant took place on 12.09.1991. For two years, they were together and thereafter, got separated, and was staying with her sister PW3 for some time and later, with her parents. The alleged assault and demand of dowry said to have taken place during 1991 to 1994, a complaint was lodged only on 20.01.1999, after a period of five years. Earlier, a complaint lodged during 1994, what happened thereafter, there is no answer.

16. PW1 though mentions various instances for demand of dowry, no other witnesses had stated about the same. The evidence of PW2 and PW3 are contradictory to the evidence of PW1. The demand of Rs.5000/- by the second petitioner for business is admitted by PW3 and PW4. A request made for business would not amount to dowry demand. Further, with regard to the forced abortion initially within three months after the marriage and after sometime giving birth to a stillborn child due to the kicking of the second petitioner are not supported with any medical evidence.

17. The first and second petitioners were manhandled, immediately taken to the hospital for treatment as seen from the Accident Register. In the Accident Register No.0559852 issued by the Government General Hospital, Chennai, it is seen that the assault was made on 25.12.1998 at the All Women's Police, Vellore. A2 was severely bleeding and the Government Doctor confirms the same. He had also taken treatment as inpatient. The first petitioner's wound certificate issued by the Government Doctor, Arakonam confirms the injury sustained. There is nothing against A1, A3 and A4, except some allegations made against A2. The evidence of PW1, does not inspire confidence. Added to it,



PW3, her sister's evidence is contradictory. The evidence is with exaggeration and vastly in variable to the evidence of other witnesses and to the facts of the case.

18. Added to the above, it is admitted that after 1994, the defacto complainant was living separately, leaving her matrimonial home and there was no connection with the second petitioner and his family members thereafter, the complaint lodged five years later, in the year 1999. Hence, the instant case is barred by limitation under Section 468 of Cr.P.C.

19. Looking at the case from every angle, the judgment of the Trial Court in C.C.No.147 of 1999 dated 22.10.2013 confirmed in C.A.No.111 of 2013 by the II Additional District and Sessions Judge, Vellore are set aside and the revision is, accordingly, allowed. The petitioners are acquitted of all the charges levelled against them. Consequently, connected miscellaneous petition No.1 of 2015 is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The II Additional District & Sessions Judge
Ranipet, Vellore District.
- 2.The Judicial Magistrate,
Arakonam, Vellore District.
- 3.The Sub-Inspector of Police
All Women Police Station, Arakonam
- 4.The Public Prosecutor,
High Court,
Madras.
- 5.The Chief Judicial Magistrate,
Vellore (For Information).



Copy To

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

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+1cc to Mr.P.Nagaraju, Advocate SR.No.22018

Crl.RC.No.472 of 2015

PL(CO)
GN(01/06/2022)