



Crl.A.No.749 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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R.Devi Priya

... Appellant

Vs

1. The State represented by
The Inspector of Police,
All Women Police Station.
Krishnagiri.

2. Venkatesan
3. Mangammal
4. Krishanappa
5. Prema

...Respondents

PRAYER : This Criminal Appeal has been filed under Section 372 of Cr.P.C, to call for the records and set aside the Judgment of acquittal passed by Session Judge, Fast Track Mahila Court, Krishnagiri dated 11.12.2018 in S.C.No.104 of 2015 and this Hon'ble Court may be pleased to convict the respondents 2 to 5.

For Appellant	: Mr.A.K.R.Ravi
For R1	: Mr.A.Gopinath
	Government Advocate (Crl. Side)
For R2 to R5	: Mr.V.Rajamohan



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JUDGMENT

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This criminal appeal is filed as against the judgment passed in SC.No.104 of 2015 dated 11.12.2018 on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri, thereby acquitted the respondents 2 to 5 herein for the offences under Sections 498(A), 313 and 494 of IPC.

2. The case of the prosecution is that the victim got married with the first accused on 17.06.2007. At the time of their marriage, her parents presented 50 sovereigns of gold jewels and household articles. Instead of a two wheeler, the accused demanded Rs.72,000/- and received and same. After the marriage, the victim and the first accused had set up a separate house. After 15 days of their marriage, all the accused persons tortured the victim by demanding huge dowry. However, her parents could not fulfil their demand and as such, the first accused had beaten the victim and also attempted to hang her. When the victim was studying third year of her B.Com degree, the first accused had withdrawn her studies and expressed that he was not able to spend any money for her studies and she was driven out from the matrimonial home. Thereafter, there was negotiation between both the families in front of elders. After, amicably settling the issues, again the victim had gone to the matrimonial home. Thereafter, her parents had settled a sum of Rs.10,00,000/- as dowry, and the



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accused were calm for period of some time. Again the first accused in a drunken mood, used to beat the victim. Therefore, she sustained injuries. The other accused persons also threatened her with dire consequences and used to threaten that they will marry the fourth accused to the first accused.

2.1 After a period of two months, she got pregnant. In order to abort her pregnancy, she was administered poison on 10.02.2012. However, the victim split it out and she was driven out to the parents' house. Thereafter, she got admitted into Jeeva Hospital at Krishnagiri. Fortunately, she was saved by the doctors. Thereafter the first accused got married to the fourth accused. Hence, the complaint. On receipt of the said complaint, the first respondent registered FIR in crime No.3 of 2014 for the offences under Sections 498(A), 313 and 494 of IPC. After completion of investigation, accused 1 to 3 were charged for the offences under Sections 498(A), 313, 494 of IPC and the fourth accused was charged for the offence under section 494 of IPC. The trial Court had taken cognizance for the above said offences as against the accused persons in SC.No.104 of 2015.

3. In order to bring home the charges, the prosecution had examined PW1 to PW11 and marked Ex.P1 to Ex.P9. On the side of the accused, no one



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was examined and no document was marked. On perusal of the oral and documentary evidence, the trial court found them not guilty and acquitted them of all the charges. Aggrieved by the same, the present criminal appeal has been filed.

4. The learned counsel for the appellant would submit that there are clinching evidences to attract the offence under Sections 498(A), 313 and 494 of IPC as against the accused persons and even then, the trial Court, without considering the same, mechanically acquitted the accused for want of evidence. PW1 was administered poison by the accused to abort her pregnancy. Even then, the trial Court failed to convict the accused for the offences under Section 313 of IPC. Immediately after 15 days from the date of their marriage, the accused had tortured the victim to bring huge dowry. PW1 categorically deposed that she was tortured for dowry and her pregnancy was aborted by the accused persons. It was corroborated by the evidence of PW2 to PW10. He further submitted that the Village Administrative Officer was examined as PW10 who had spoken about the marriage between A1 and A4. He also issued certificate that the fourth accused name was found in the ration card of the accused family and the said certificate was marked as Ex.P7. The prosecution also produced the marriage invitation of A1 and A4. It was marked as Ex.P3.



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The photograph of their marriage was marked as Ex.P4. Therefore, the prosecution categorically proved its case and the accused 1 to 4 are liable to be punished for all the offences charged.

5. The learned Government Advocate(crl.side) appearing for the first respondent/ police also supported the case of the appellant and pointed out that the first accused got married to the fourth accused and they also gave birth to a male child. Therefore, the order of acquittal cannot be sustained and respondents 2 to 5 are liable to be punished.

6. Heard, Mr.A.K.R.Ravi, the learned counsel for the appellant, Mr.A.Gopinath, learned Government Advocate(crl.side) appearing for the first respondent / police and Mr.V.Rajamohan, the learned counsel for respondents 2 to 5.

7. There are totally four accused. The first accused is the husband of the victim and accused 2 and 3 are in-laws. The fourth accused is the second wife of the first accused. Admittedly, the victim got married to the first accused on 17.06.2007. It was an arranged marriage. During their marriage, her parents presented gold jewels and household articles. After the marriage, the accused tortured her to bring huge dowry. Since the parents of the victim could not fulfil their demand, she was driven out from matrimonial home. Thereafter, there was



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panchayat and in the panchayat, parents of the victim agreed to pay dowry and thereafter, she was taken to the matrimonial home. The parents of the victim gave a sum of Rs.10,00,000/- as dowry to accused 1 to 3 herein. Thereafter, she got pregnant and in order to abort her pregnancy, she was administered spurge milk, due to which her pregnancy was also aborted. Thereafter, in order to marry the fourth accused, all the accused 1 to 3 had driven out the victim to her parents' house.

8. However, the prosecution failed to produce any material evidence to substantiate the allegations in order to bring charges under Sections 313 and 494 of IPC. Though the deposition of PW1 was categorically supported by PW2 to PW4, they failed to bring any document to show that PW1's pregnancy was aborted due to administering poison. PW2 and PW3 are parents of PW1 and PW4 is the elder brother of PW1. They categorically corroborated the evidence of PW1. The prosecution examined PW6 to PW8 and they are independent witnesses. They categorically deposed that the first accused got married to the victim and during their marriage, gold jewels and household articles were presented. Thereafter, there was demand of huge dowry by the accused persons and there was also panchayat.



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9. The Village Administrative Officer was examined as PW10. He issued certificate certifying that the first accused got married with the fourth accused and they are living as husband and wife. He further certified that on enquiry, he found that the first accused got married with the fourth accused and their names are also found in the ration card. However, the Village Administrative Officer is not the competent authority to certify about the marriage of the first accused with the fourth accused, without any substantial material. The prosecution also produced the photograph and the invitation, which were marked as Ex.P3 and Ex.P4. Therefore, the prosecution failed to prove the charges under Sections 313 and 494 of IPC.

10. Insofar as the offence under Section 498(A) of IPC, all the witnesses PW1 to PW8 categorically deposed that PW1 was under cruelty committed by accused 1 to 3. Unfortunately, the trial court mechanically acquitted the accused from all the charges. In view of the above, this Court finds that the prosecution proved the charges under Section 498(A) of IPC as against A1 to A3. Hence, the order of acquittal of respondents 2 to 4 / accused 1 to 3 by the court below for the offences under Section 498(A) of IPC cannot be sustained and it is liable to be set aside.



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11. When this Court questioned about the sentence, the accused 1 to 3 deposed that they are coolies in a quarry and they have no means to pay any compensation.

12. Considering the statements recorded from the accused, the judgment passed in SC.No.104 of 2015 dated 11.12.2018, on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri is hereby set aside. This Court is inclined to sentence the respondents 3 and 4/A2 and A3 till the rising of this Court. Insofar as the second respondent/A1 is concerned, today, the respondent 2/A1 paid a sum of Rs.1,00,000/- cash directly to the appellant as compensation and the same was duly acknowledged by her. Hence, this Court is inclined to sentence the second respondent/A1 to pay a remaining sum of Rs.1,50,000/- (Rupees One Lakh Fifty thousand only) directly by way of Demand Draft to the appellant, on or before 30.12.2022, failing which, the second respondent/A1 shall undergo six months simple imprisonment. In such an event, the first respondent is at liberty to secure the second respondent/A1 to serve the period of sentence imposed by this Court.

13. Accordingly, this Criminal Appeal stands allowed.



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Speaking order/Non-speaking order

Index :Yes/No

Internet :Yes/No

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G.K.ILANTHIRAIYAN, J.

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To

1. The Sessions Judge, Fast Track Mahila Court, Krishnagiri.



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2. The Inspector of Police,
All Women Police Station.
Krishnagiri.

3. The Public Prosecutor,
High Court, Madras.

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