



CrI.R.C.No.192 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.192 of 2021 and
CrI.M.P.Nos.4627 and 4629 of 2021

Prabhu

...Petitioner

-Vs-

State rep. by
The Inspector of Police,
All Women Police Station,
Tiruppur North.
(Cr.No.20 of 2017)

...Respondent

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. call for the records in C.A.No.124 of 2018 on the file of I Additional District and Sessions Judge, Tiruppur, confirming the judgment of conviction dated 22.11.2018 passed in C.C.No.596 of 2017 by the learned Judicial Magistrate No.I, Tiruppur, and set aside the same.

For Petitioner : Mr.M.Subash
For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

The criminal revision has been filed against the judgment of conviction made in C.A.No.124 of 2018 by the learned I Additional District and Sessions Judge, Tiruppur, confirming the judgment of conviction dated 22.11.2018 passed in C.C.No.596 of 2017 by the learned Judicial Magistrate No.I, Tiruppur.

2 Based on the complaint given by P.W.1, wife of the petitioner, a case was registered in Cr.No.20 of 2017 against the petitioner and his parents for the offence under Sections 498 (A), 194(B) and 506(2) of IPC and after completing investigation, the respondent police filed a charge sheet before the learned Judicial Magistrate No.I, Tiruppur, which was taken on file in C.C.No.596 of 2017. The learned Judicial Magistrate No.I, Tiruppur, after hearing the respective counsel, by judgment dated 22.11.2018 acquitted all the accused for the offence under Sections 294(B) and 506(2) of IPC and convicted all the accused only for the offence under Section 498A of IPC and sentenced them to undergo rigorous imprisonment



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for a period of two years and imposed fine of Rs.500/- to each of the accused, in default, to undergo simple imprisonment for a further period of two months. Aggrieved against the judgment of conviction, all the accused have preferred an appeal in C.A.No.124 of 2018. The learned I Additional District and Sessions Judge, Tiruppur, after hearing both the counsel, by judgment dated 19.03.2021 confirmed the conviction against the petitioner/A1 and set aside the conviction recorded by the trial Court against A2 and A3 and acquitted them. Aggrieved against the judgment of conviction, the petitioner/A1 is before this Court with the present criminal appeal.

3 The learned counsel appearing for the petitioner/A1 would submit that false case has been foisted against the petitioner. P.W.1 in her evidence has stated that the petitioner dashed her head on the wall and she sustained injuries and bleeding was also there, but to prove the same no medical record was produced by the prosecution and there is no independent witness to corroborate the evidence of P.W.1. P.Ws.2 to 7 are the close relative of P.W.1 and further they are residing in somewhere else, who



probably could not have seen the incidents. In the absence of any independent witness to corroborate the evidence of P.W.1, recording conviction against the petitioner for the offence under Section 498(A) is unsafe.

3.1 The learned counsel would further submit that from the very same materials, the lower appellate Court, while re-appreciating the evidence, found the A2 and A3 not guilty for the offences charged against them, but, erroneously came to the conclusion that prosecution has proved the offence under Section 498-A IPC and confirmed the conviction, which is against the law.

3.2 Therefore, the judgment of the lower appellate Court is liable to be set aside and the petitioner is entitled to acquittal.

4 Learned Additional Public Prosecutor appearing for the respondent police would submit that the petitioner and the defacto complainant/P.W.1 are husband and wife. After marriage, the accused



demanded money and caused cruelty and there was frequent quarrel. Further the petitioner has illegal intimacy with the other woman and the petitioner used to beat P.W.1 and harass her physically. The evidence of P.Ws.2 to 7 are corroborated with the evidence of P.W.1 and since some of the witnesses are relative to P.W.1, their evidence cannot be thrown out. The lower appellate Court after re-appreciating the entire evidence confirmed the conviction against the petitioner for the offence under Section 498-A IPC, which does not call for any interference of this Court.

5 Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police and perused the entire materials available on record.

6 It is the main contention of the learned counsel for the petitioner that there is no independent witness to corroborate the evidence of P.W.1. It is to be noted that it is not the case of the prosecution that the petitioner used to beat P.W.1 either before any independent witnesses or in the public view and hence non examination of any independent witness is



not fatal to the case of the prosecution. From the evidence of P.W.1, it is clear that the petitioner used to beat her often by demanding money and also scolded in a filthy language. The evidence of P.Ws.2 to 7 also corroborated with the evidence of P.W.1 and since some of the witnesses are relative, evidence of P.W.1 cannot be brushed aside, especially when it is cogent, consistent and corroborated with the evidence of other witnesses.

7 It is settled proposition of law that while exercising revisional jurisdiction, this Court has to see whether there is any perversity in appreciation of evidence while deciding the case by the Courts below and it cannot step into the shoes of the appellate Court.

8 From a careful reading of evidence of P.W.1 the victim and other witnesses P.Ws.2 to 7, it is clear that the petitioner caused cruelty on P.W.1 physically and mentally by demanding money and also had illegal intimacy with other woman and P.Ws.2 to 7 have categorically stated about the demand of money and the cruelty caused by the petitioner to P.W.1. There is no reason to discord or disbelieve the evidence of the above



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witnesses and the lower appellate Court also after re-appreciating the entire evidence, confirmed the conviction, in which, this Court does not find any perversity.

9 For the foregoing reasons, this criminal revision stands dismissed as devoid of merits. Consequently connected miscellaneous petitions are closed. Trial Court is directed to secure the custody of the petitioner to serve remaining period of imprisonment, if any.

12.10.2022

Index : Yes/No
Speaking Order/Non Speaking Order
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To

1. The I Additional District and Sessions Judge, Tiruppur.
2. The Judicial Magistrate No.I, Tiruppur.
3. The Inspector of Police, All Women Police Station, Tiruppur North.
4. The Public Prosecutor, High Court of Madras.



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P.VELMURUGAN, J.,
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