



Crl.A.No.310 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	07.11.2022
PRONOUNCED ON	21.11.2022

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.A.No.310 of 2021

R.Shenbagavalli

...Appellant

-Vs-

1.A.Dhanasekaran

2.K.Lakshmanan

3.K.Ranganathan

... Respondents

Criminal Appeal filed under Sections 397 and 401 Cr.P.C to set aside the order of acquittal passed in C.C.No.219 of 2014 dated 03.03.2021 on the file of the learned Judicial Magistrate No.I, Dharmapuri, Dharmapuri District.

For Appellant : Mr.R.Jayaprakash

For Respondents : Mr.N.Vijaya Baskar,
for M/s.Law Vision.



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JUDGMENT

This Criminal Appeal has been filed to set aside the order of acquittal passed in C.C.No.219 of 2014 dated 03.03.2021 on the file of the learned Judicial Magistrate No.I, Dharmapuri, Dharmapuri District.

2. The appellant is the complainant and the respondents are the accused. The appellant had filed a complaint before the learned Judicial Magistrate No.1, Dharmapuri under Section 200 of the Code of Criminal Procedure [hereinafter referred as “CrPC”] against the respondents and the said complaint is for the offences under Sections 294B, 506 and 511 of IPC. The said complaint was taken on file in C.C.No.219 of 2014.

3. After taking the cognizance of the complaint, in order to prove the allegations of the complaint, the witnesses PW1 to PW4 were examined and the exhibits Ex.P1 to Ex.P8 were marked on the side of complainant. However, on the side of the respondents, there is no oral or documentary evidence were produced. After trial the learned Judicial



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Magistrate dismissed the compliant and acquitted the respondents.

Challenging the said order of dismissal of the complaint and acquittal of the respondents, the complainant therein has filed the present Criminal Appeal against acquittal.

4. The specific case of the appellant is that on 31.01.2013 at about 05:00 a.m, when the appellant was in the house, the respondents came to the house of the appellant and threatened her that if the appellant's family do not withdraw all the case against the respondents, the daughter of the first respondent would commit suicide and if she commit suicide, the appellant family is responsible for her suicide and also scolded the appellant with filthy language.

5. The learned counsel for the appellant would submit that in this case, PW3, who is the neighbour of the appellant, has clearly witnessed the occurrence. At the time of occurrence, PW2 and PW4 were not in the house and PW1 alone was in the house. The respondents came to the



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house of the appellant and scolded her in filthy language and also threatened her that if the appellant's family do not withdraw the cases pending against the respondents, the daughter of the first respondent would commit suicide and if she commit suicide, the appellant family is responsible. The appellant/complainant, who was examined as PW1, has clearly narrated the said incident in her evidence. She filed a complaint before the police and since no action has been taken on the said complaint, she filed a private complaint before the learned Judicial Magistrate.

6. Further the learned counsel for the appellant would submit that the appellant has also clearly stated that on 31.01.2013 at about 5 a.m, all the respondents came to the house of the appellant and threatened her and also there is a specific overt act that the second respondent has specifically threatened her. As the PW1 and PW3 are the the witnesses to the occurrence, they have clearly deposed the same. However, the trial Court failed to appreciate the same and by simply pointing out some immaterial contradictions dismissed the complaint against the respondents on the



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ground that the appellant has not stated any specified filthy language used by the respondents and also by stating that the PW3 does not know what was the dispute between the appellant and the respondents. Hence the judgment of the trial Court is liable to be set aside and the respondents have to be convicted.

7. The learned counsel for the respondent would submit that in this case PW1 to PW4 are the interested witnesses. PW1 is the *de facto* complainant, PW2 is husband of complainant and PW4 is son of complainant. Already there is a personal motive between the appellant and the respondents. PW1/appellant and PW2 are the mother-in-law and father-in-law of the daughter of the first respondent. The appellant/PW1 had driven the daughter of the first respondent. PW4 and the daughter of the first respondent are husband and wife and there is a matrimonial dispute between them. Due to the said matrimonial dispute, they have filed false complaint before the learned Judicial Magistrate and the alleged occurrence has not taken place on that day and there is no independent eye



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witness for the same. All the witnesses examined on the side of complainant are interested witnesses. PW3, who is said to have been an eyewitness to the alleged occurrence, is the neighbour of the appellant/PW1 and he was very close to the appellant's family and therefore the appellant has not substantiated that the respondent came on the day of the occurrence and scolded her with filthy language and threatened her with dire consequences. Hence, the trial Court has rightly appreciated the evidence.

8. Heard the learned counsel on both sides and perused the materials available on record.

9. In this case, the appellant filed a private complaint against the respondents before Judicial Magistrate under Section 200 CrPC. On a perusal of the complaint, it is clear that the PW4 and the daughter of the first respondent are husband and wife and since, there was misunderstanding between the appellant's family and the respondents, the respondents came to the the house of the appellant on 01.04.2012 and knocked the door. Since the appellant has not opened the door, the



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respondents standing in front of the house threatened the appellant that if the appellant do not withdraw the cases against the respondents, the daughter of the first respondent will commit suicide by setting fire or by consuming poison and the appellant will be responsible for her death and also scolded the appellant with the defamatory words. Prior to the alleged occurrence, due to the matrimonial dispute, the daughter of the first respondent went to her parents house and filed a complaint against the appellant in Crime No.29 of 2012 before the All Women Police Station, Arur, in which the appellant and her family members have filed the anticipatory bail. The said anticipatory bail was granted by this Court with certain conditions.

10. A reading of the complaint as well as the deposition of the complainant/PW1, it is made clear that the marriage between the PW4 and the daughter of the first respondent was solemnized on 06.02.2012 at Dharmapuri Madurabai marriage hall. After the marriage, the daughter of the first respondent had quarrel with her husband/PW4 and she had gone



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to Chennai, where she removed the Mangalsutra (Thali). Thereafter, there was a Panchayat in the house of her grandfather, where it was decided that she should reside only in the house of the appellant. Thereafter, she resided in the appellant's house and her parents came to the appellant's house during night hours and caused disturbance to them. It is also alleged that the daughter of the first respondent used to talk over cell phone for hours together. When she was questioned about the same by the appellant, she would say that she is talking with her husband/PW4, but it was denied by PW4 when he was questioned that whether he talked with his wife. It is further alleged that the respondents have also demanded all the jewels belongs to the daughter of the first respondent.

11. In the deposition it is stated by the PW3, who is the neighbour of the appellant and witness to the occurrence, that on 31.01.2013 at about 05:00 o'clock, the respondents and four others had come to the house of the PW3 and they told that the marriage anniversary of the PW4 and the daughter of the first respondent falls on 06.02.2013, hence prior to that,



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the appellant should take the daughter of the first respondent to their house. If the appellant was not taking action to reunite the daughter of the first respondent and the PW4, the daughter of the first respondent will commit suicide and appellants are responsible for that. The respondents have stated the aforesaid statement and for the same, PW3 suggested the respondents to approach the Court to dissolve their disputes. However, the respondents did not agree with the same and they went to the house of the appellant. They knocked the door of the appellant and since the appellant did not open the door, the respondents scolded the appellant with the filthy language and the appellant replied that her husband and son are not in the house, for that the respondents told that they will go to the appellant's husband's office and left the place. The evidence of PW1 has been corroborated by PW3.

12. In this case the complainant proved his case through the oral and documentary evidence. PW3 is none other than the neighbour of PW1 and he has clearly corroborated the evidence of PW1. Therefore it proved



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the case that the respondents came to the house of the appellant on 31.01.2013 and threatened the appellant. Though the offence under section 511 of IPC has not been proved, the offence under Sections 294(b) and 506(1) IPC have been proved.

13. Therefore, this Court finds that the respondents have committed the offence and the trial Court had failed to appreciate the evidence. Even though, the learned counsel for the appellant would submit that there is a settled proposition of law that the Appellant Court should not interfere in the appeal against acquittal, this Court finds that there is perversity in the appreciation of the evidence and as appellant Court is the final Court of fact finding, it has to re-appreciate the evidence independently. Under compelled reasons, the appellant Court shall interfere with the judgment of the trial Court on acquittal. Therefore from the evidence of PW1 and PW3, this Court finds that the respondents have committed the offences under Sections 294(b) and 506(1) IPC.



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14. For the said reason this Criminal Appeal is allowed and the judgment of the trial Court is set aside. However, since the appeal against acquittal is reversal judgment, before the imposing sentence accused have to be heard on question of sentence. Therefore, the respondents are directed to appear before this Court on 24.11.2022.

21.11.2022

Index: Yes/No
Speaking Order/Non-Speaking Order
nsa

To

1.The Judicial Magistrate No.I,
Dharmapuri,
Dharmapuri District.

2.The Public Prosecutor,
High Court, Madras.

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Pre-Delivery order in
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**Crl.A.No.310 of 2021
and
Crl.M.P.No.17810 of 2022**

P.VELMURUGAN, J.

When the matter came up for hearing on 21.11.2022, the accused/respondents appeared and the learned counsel for both parties are also appeared. As there is a dispute between the bride and bridegroom family, this Court advised them to ascertain the possibility of settlement between both the family and both the counsel accepted and sought time to advise their clients.

2. Today, when the matter is taken up for hearing, the learned counsel for the appellant would submit that there is no possibility of settlement between the parties.

3. The learned counsel for the respondents would submit that they are ready for settlement.

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4. Considering the nature of the dispute and admittedly they are living separately, this Court on hearing the respondents 1 to 3/A1 to A3, A1 and A2 stated that there is no occurrence taken place and A3 sought apology from this Court. Since the offences under Sections 294 (b) and 506(i) of IPC which are punishable either by sentence of imprisonment or fine, this Court is inclined to award sentence of fine alone. The respondents/accused are convicted and sentenced to pay a sum of Rs.5,000/- each, in default, to undergo 1 month of Simple Imprisonment for the offence under Section 294(b) of IPC and A1 and A2 is directed to pay a fine of Rs.25,000/- each and A3 is directed to pay a fine of Rs.10,000/-, in default, to undergo three months of Simple Imprisonment for the offence under Section 506(i) of IPC.

29.11.2022

dh

Note: Issue Order copy on 30.11.2022

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and Crl.M.P.No.17810 of 2022**