

BAIL SLIP

The Petitioner Namely M.Venkateswaran S/o Late Muthulakshmi Acchari, Accused in C.C.No.221/2018 on the file of IVth Metropolitan Magistrate, Saidapet, Chennai, was directed to be released on bail as per order of this Court dated 08/08/2017 and made in CrI.M.P.No.9603/2017 in CrI.r.C.No.1017/2017.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.06.2022

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

CrI.R.C.No.1017 of 2017

M.Venkateswaran .. Petitioner/Accused -1

Vs.

The State Rep.by
The Inspector of Police,
W-26, All Women Police Station,
Chennai .. Respondent/Complainant

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to set aside the conviction imposed in judgment dated 27.06.2017, passed by learned XV Fast Track Court, to set aside the conviction imposed in judgment dated 27.06.2017 passed by XV Additional Sessions Judge, Chennai where in partly allowed in order in C.C.No.221 of 2008 on the file of IV M.M., Saidapet, Chennai.

For Petitioner : Mr.E.Kotteswaran

For Respondent : Mr.N.S.Suganthan
Government Advocate (CrI.side)

ORDER

The Criminal Revision Case is filed against the concurrent finding of the Courts below regarding the offences under Section 498A of IPC and Section 4 of Dowry Prohibition Act.

2. Though the petitioner and others were charged for offences under Sections 498A , 406, 420 and 506(ii) of IPC, the trial Court held the revision petitioner, who is the 1st accused,

alone guilty of offences under Sections 498A, 406 of IPC and Section 4 of Dowry Prohibition Act by the Trial Court and convicted and sentenced the accused as follows:-

Rank of the accused	Charges	Findings	Punishment
1 st accused	U/s. 498 A of IPC	Found guilty	Convicted and sentenced to undergo three years Simple Imprisonment and to pay a fine of Rs.3,000/-; in default to undergo 2 months S.I.
	U/s. 406 of I.P.C	Found guilty	Convicted and sentenced to undergo one year Simple Imprisonment.
	Section 4 of Dowry Prohibition Act	Found guilty	Convicted and sentenced to undergo one year Simple Imprisonment and to pay a fine of Rs.2,000/-; in default to undergo one month S.I.

3. Being aggrieved by the said conviction and sentence, the petitioner herein preferred C.A.No.22 of 2017 and same was heard and decided by the XV Additional Sessions Judge, Chennai, which partly allowed the appeal and acquitted the petitioner herein for the charge under Section 406 of IPC, whereas, confirmed the sentence and conviction for offences under Section 498A of IPC and Section 4 of Dowry Prohibition Act.

4. The learned counsel for the revision petitioner would submit that the marriage which was solemnised on 31.03.2006, broke down within three days an the day of their marriage reception held in a hotel. During the reception there was quarrel between the petitioner and his brother-in-law i.e., the brother of the defacto complainant. This quarrel ended in into physical altercation. Being humiliated by the said altercation, the petitioner herein left the reception hall. Thereafter, he tried his best to reconcile through e-mail and phone for nearly four months, but due to her ego and family pressure, she did not come to any terms. Therefore, he was forced to file a divorce petition.

5. To counter and get over her fault and her family members fault, the complaint has been filed as if he demanded gold jewels and money for the marriage as dowry, since his demand was not made, he walked out during the reception.

6. Further, the learned counsel for the petitioner would also submit that the complaint to portray the petitioner as a man of immorality and they have also made an allegation that he was married and also he is making all attempts to get married again by suppressing the earlier marriage with the defacto complainant and submitting that the Courts below have failed to consider the sequence of the events and the documents produced, more particularly, the entire videograph taken during the reception which is fatal to the prosecution.

7. The learned Government Advocate (Crl.Side) for the respondent would submit that the prosecution has proved the case by examining 15 witnesses and marked 46 exhibits. Though the defence has examined and marked 10 exhibits, it no way discharge the burden of presumption against them. The break down of the marriage within 3 days and the walk out of the petitioner herein during the reception is evidence to show that the petitioner was expected something unlawful and illegal which cannot be met by the defacto complainant and her family members. The prosecution through its witnesses has adduced evidence to show that the break down of the marriage within three days of solemnised was purely due to cruelty caused by the petitioner to the defacto complainant and due to unreasonable demand of dowry.

8. The perusal of evidence besides the finding of the appellate Court go to show that the prosecution has proved beyond doubt that the marriage between the defacto complainant and the petitioner herein was solemnised on 31.03.2006. The appellate Court on re-appreciation of the evidence has acquitted the petitioner herein for the offence under Section 406 of IPC, however, confirmed the conviction and sentence for the offence under Section 498A of IPC and Section 4 of Dowry Prohibition Act.

9. The prime contention of the petitioner is that there is no proof for demand and no evidence to show that the break down of marriage was due to demand of dowry or cruelty caused by the petitioner herein. Pointing out the marriage was a short lived marriage for only three days and the possibility of allegations causing mental or physical cruelty is highly doubtful. Even according to the prosecution, if there was some quarrel in connection with the demand of dowry during the reception and the same has been been videographed, the best evidence will be the videograph, which voluntarily withheld by the prosecution in spite of the memo filed by the petitioner for

production of videograph. Therefore, the learned counsel for the petitioner would submit that the correctness and legality of the finding of the Courts below requires revision.

10. The learned counsel for the revision petitioner would also submit that Ex.D1 to Ex.D10 and the deposition of the appellant were not properly appreciated, which has led to miscarriage of justice. It is an admitted fact that the betrothal between PW.4 and the petitioner herein took place on 03.02.2006. Thereafter, the petitioner was infected with Chickenpox and there are evidence to speak, for the said reason, there was some delay in conducting the marriage and at last on 31.03.2006, the marriage was solemnised.

11. According to PW.1, who is an independent witness, before coming to the marriage hall there was some misunderstanding between the family members of the bride and the family members of the bridegroom. There was dispute regarding certain customary ceremonies to be conducted after the marriage solemnised. Thereafter, the dispute was resolved and on 02.04.2006, the reception was arranged.

12. PW.11 / Videographer, who covered the event, had deposed that the reception was organised at Aishwarya Mahal, Koyambedu, Chennai. At that time, there was heated arguments between the mother of the defacto complainant on one side and the father and brother of the petitioner on the other side. The petitioner and his family members refused to co-operate with him for taking photos. When he enquired, they told that due to dispute regarding jewels, they are fighting. Soon thereafter, the petitioner and his family members walked out from the reception hall. This witness was subjected to cross examination. In the cross examination, he has reiterated that he heard that the dispute was because of jewels agreed to be given. But he could not identify the person who informed that to him. He has admitted that he has covered the petitioner, who was frequently moving on and off the dias agitatedly.

13. The learned counsel for the petitioner on the fact would submit that the said photograph was not produced and this witness to the occurrence was only hearsay.

14. This Court is of the view that PW.1 and PW.11 are independent witnesses, who have spoken broadly about the arrangement made prior to the marriage and the incident took place during the reception. It is an admitted fact that the petitioner herein walked out from the reception hall abruptly and thereafter the defacto complainant and the petitioner never got united, though there are some materials to show that there were contacting through e-mail and phone. This may not sufficient to show that the withdrawal of the matrimonial home

in the middle of reception, could not have caused any mental cruelty to the defacto complainant.

15. The learned counsel for the petitioner would submit that the petitioner has mounted the witness box and established his innocence and marked 10 Exhibits to show that there was no demand of dowry.

16. The perusal of the defence documents, particularly, the alleged conversation between the defacto complainant and the petitioner herein after their separation from the reception hall on 02.04.2006, only reinforced the fact that the defacto complainant / PW.4 was subjected to mental cruelty by this petitioner. Particularly, the alleged conversation on 18.05.2006 would show that the petitioner has admitted causing notice through his counsel to get divorce with all falsehood and justify the same on the pretext that the notice was issued only to pressurise the defacto complainant to join him. However, he also candidly admits that he demanded 100 sovereigns of jewel, but had pleaded that he was forced to demand 100 sovereigns at that point of time. To cap in the course of the conversation, the defacto complainant has said by deceiving her, the petitioner making her mentally sick and therefore, she has no interest in continuing any conversation with him. This gives quietus in the petitioner's case and this Court finds no illegality or error in the findings of the appellate Court judgment, which has confirmed the conviction under Section 498A of IPC.

17. The learned counsel for the petitioner would submit that now the defacto complainant is married and settled down in abroad and the case is pending for nearly 16 years. Taking note of the fact, some leniency may be shown to the petitioner regarding the sentence ordered.

18. Taking note of the submissions and other factors while confirming the conviction under Section 498A and Section 4 of D.P. Act, this Court is of the view that the sentence imposed on the revision petitioner for the offence under Section 498A of IPC shall be reduced from three years Simple Imprisonment to two years Simple Imprisonment. As far as the sentence imposed for the offence under Section 4 of Dowry Prohibition Act is concerned, one year Simple Imprisonment is confirmed. The period of sentence shall run concurrently.

19. In the result,

(i) this Criminal Revision Case is partly allowed.

(ii) the sentence imposed on the revision petitioner/accused by the appellate Court is modified to two

years S.I. instead of three years S.I., for the offence under Section 498A of IPC.

(iii) the period of imprisonment already undergone by the revision petitioner shall be set off. The learned trial judge shall take steps to enforce this judgment.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The XV Additional Sessions Judge, Chennai.
2. The IV Metropolitan Magistrate, Saidapet, Chennai.
3. The Chief Judicial Magistrate,
Egmore, Chennai.
4. The Inspector of Police,
W-26, All Women Police Station,
Chennai
5. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.E.Kotteswaran, Advocate, S.R.No.38546

CrI.R.C.No.1017 of 2017

SSI(CO)
CT/11/07/2022