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Crl.A.No. 683 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2022

Coram

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.A.No. 683 of 2021

1.Amutha
2. Pakkiri

..Appellants

-Vs-

State rep. By
The Inspector of Police,
All Women Police Station,
Panruti,
Cuddalore District
(Crime No. 03/ 2017)

..Respondent

PRAYER : Criminal Appeal filed under Section 374(2) Cr.P.C., praying to set aside the conviction and sentence imposed in judgment dated 30.11.2021 made in S.C.No. 300/2017 by the learned Sessions Judge, Mahila Court, Cuddalore.

For Appellant : Mr.G.Mohan
For Respondent : Mr.R.Murthi, GA (Crl.Side)



Crl.A.No. 683 of 2021

WEB COPY

ORDER

This Criminal Appeal is filed challenging the conviction and sentence imposed in judgment dated 30.11.2021 made in S.C.No. 300/2017 by the learned Sessions Judge, Mahila Court, Cuddalore.

2. The respondent police registered a case against the appellant and two others in Crime No.3/2017 for offences under Section 417, 376 and 294(b) IPC and also under Section 4 of Dowry Prohibition Act. After completing investigation, laid charge sheet before the Judicial Magistrate-I, Panruti. The learned Judicial Magistrate taken charge sheet on file in PRC. No. 15/2017 and completed the formalities under Section 207 and committed the case to the Principal District and Sessions Court, since the some of the offences exclusively triable by Court of Session. The learned Principal District and Sessions Judge taken on file in Spl.CC.No. 300 of 2017 and made over the case to Mahila Court, since the offences charged are against women. The learned Mahila Judge, after completing the formalities, framed charges against the accused under Sections 376, 417 and 294(b) IPC and



Crl.A.No. 683 of 2021

found A1 guilty of the offences under Sections 376 and 417 IPC and A2 & A3 are found guilty of the offence under Section 4 of Dowry Prohibition Act and not found guilty of the offence under Section 294(b) IPC.

3. In order to substantiate the charges framed against the appellant and 2 others, on the side of the prosecution 10 witnesses were examined as PW1 to PW10 and 9 documents as Exhibits P1 to P9 were marked and no material objects were exhibited.

4. After examining the prosecution witnesses, the incriminating circumstances culled out from the evidence of the prosecution witnesses were put before the accused/ appellant and questioned under Section 313 of Cr.P.C and he denied all the incriminating circumstances as false and pleaded not guilty

5. On conclusion of trial, hearing of arguments advanced by the learned counsels on either side and based on the entire materials, the trial Court found the appellant/A1 guilty for the offences under Section 376(1) IPC and sentenced to undergo rigorous imprisonment for a period of 10 years and



Crl.A.No. 683 of 2021

to pay fine of Rs.1,00,000/- and in default, to undergo simple imprisonment for a period of 2 years. The appellant was also convicted for the offence under Section 417 IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.50,000/- and in default, he shall undergo simple imprisonment for a period of three months. However, other accused A2 & A3 were found guilty of the offence under Section 4 of the Dowry Prohibition Act and sentenced to undergo simple imprisonment for a period of one year and to pay fine of Rs.10,000/- and in default, each of them shall undergo simple imprisonment for a period of three months and acquitted from the charges framed under Section 294(b) IPC.

6. Aggrieved over the same, the appellants/A2 & A3 have filed the present appeal before this Court.

7. The learned counsel for the appellants/A2 & A3 would submit that the appellants never demanded any money from the victim's parents. The appellants and victim are relatives and their houses are opposite to each other. The appellants' son and the victim were fell in love with each other. After



Crl.A.No. 683 of 2021

the victim became pregnant, the victim insisted the son of the appellants to marry her. The appellants' son also told the victim that he would marry after his elder son of the appellants got married. Due to afraid of her premarital pregnancy and the society, she insisted the appellants and their son for marriage. Therefore, there was no demand of dowry by the appellants herein. It is only the victim and son of the appellants who fell in love and had physical relationship, and due to that she became pregnant and subsequently, she gave birth to a child. The appellants herein who are the parents have no way concern with the alleged offence and the trial Court failed to appreciate the same. Though the trial Court found the appellants not guilty of the offence under Section 294(b) IPC, has wrongly convicted the appellant for the offence under Section 4 of Dowry Prohibition Act, the same is liable to be set aside and the appeal is liable to be allowed.

8. On the other hand, the learned Government Advocate appearing for the respondent police would submit that though the appellants are relatives dues to love affairs they had physical relationship and the victim became pregnant. When it was informed by the victim to her aunt and her mother,



Crl.A.No. 683 of 2021

they asked the appellants to arrange marriage between their son and the victim. The appellants taking advantage of the pregnancy of the victim, had demanded dowry of 30 sovereigns of gold jewels and a car and other household articles and stridhana articles. Since the victim's family objected to give dowry, the appellants refused to marry their son to the victim. Hence the defacto complainant/victim has filed a complaint against the appellants and their younger son. The prosecution has also proved its case beyond reasonable doubt. The DNA test also proves that the appellants' younger son is a biological father of the child born to the victim. Therefore, the prosecution proved the fact that the appellants herein taking advantage of pregnancy of victim, had demanded dowry of 30 sovereigns of gold jewels and a car and other stridhana articles. The trial Court has also rightly appreciated the entire evidence and materials and convicted the appellants for the offences punishable under Section 4 of Dowry Prohibition Act, therefore the judgment of conviction and sentence imposed by the trial Court is liable to be confirmed, and the appeal is liable to be dismissed.

9. Heard Mr.G.Mohan, learned counsel appearing for the appellant/A1



Crl.A.No. 683 of 2021

and Mr.R.Murthi, learned Government Advocate (Crl.Side) appearing for the respondent police and perused the materials available on record.

10. It is the specific case of the prosecution that A1 is the younger son of the appellants, he fell in love with the defacto complainant, due to that they had physical relationship and subsequently, the victim/defacto complainant became pregnant. After coming to know about the same, when the relatives of the victim went to the house of the appellants and requested to marry the victim to their younger son. The appellants, making use of the position that the victim was pregnant, demanded dowry from the parents of the victim. Therefore, the victim filed the complaint before the respondent police.

11. Out of the 10 witnesses, the victim was examined as PW1, her senior maternal aunts were examined as PW2 & PW4 respectively, relatives of the victim were examined as PW3, PW6 & PW7, mother of the victim was examined as PW5, doctors who conducted medical examination on the victim were examined as PW8 & PW9 and the Inspector of Police, All Women Police Station, Panruti was examined as PW10.



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12. Evidence of PW1 clearly shows that the due to love affair with the appellants' younger son/A1, she became pregnant. While so, the appellants herein who are the parents of the A1 refused to marry their son and demanded dowry. Even the evidence of PW2 & PW3 is very clear that after they came to know that the victim was pregnant, they went to the appellants' house and insisted to marry the victim to the A1/younger son of the appellants, but the appellants refused to marry the victim. The evidence of another maternal aunt of the victim and the mother of the victim who were examined as PW4 & PW5 also corroborated the evidence of PW1 to PW3 that when they visited the house of the appellants to ask them to marry PW1 to A1, the appellants/A2 & A3 demanded dowry of 30 sovereigns of gold ornaments, a Car and other stridhana articles. Therefore, it is clear that taking advantage of pregnancy of the victim, the appellants/A2& A3 have demanded dowry for the marriage. Undisputedly, the victim became pregnant only due to the love affair with the A1/appellants' younger son, therefore, the act of the appellants/A2 & A3 refusing to marry their Son/A1 to the victim, due to the reason that the victim's family was not in a position to give dowry as



Crl.A.No. 683 of 2021

demanded by the appellants is a clear offence punishable under Section 4 of Dowry Prohibition Act 1961. The prosecution proved its case beyond reasonable doubt.

13. On overall consideration of the submissions made by the learned counsel appearing on either side and on careful perusal of the entire materials and evidence on record, this Court is of the considered view that the finding recorded by the trial Court that the accused 2 & 3/appellants are guilty for the offence punishable under Section 4 of Dowry Prohibition Act and sentenced to undergo simple imprisonment for a period of one year and to pay fine of Rs.10,000/- and in default, each of them shall undergo simple imprisonment for a period of three months, cannot be said to be disproportionate or illegal and does not require any interference by this Court.

14. In the result, the judgment of conviction and sentence imposed by the trial Court in S.C.No. 300/2017, dated 30.11.2021 in so far as the appellants/A2 & A3 is concerned are confirmed. The Criminal Appeal is dismissed.



WEB COPY



CrI.A.No. 683 of 2021

13.12.2022

Index:Yes/No
Speaking order/Non-speaking order
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To

1. The Inspector of Police,
All Women Police Station,
Panruti, Cuddalore District.
2. The Sessions Judge,
Mahila Court,
Cuddalore.



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Crl.A.No. 683 of 2021

P.VELMURUGAN, J

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Crl.A.No.683 of 2021

13.12.2022