



BAIL SLIP

The Petitioner herein/Accused viz., Balu @ Balamurugan, aged 40 years, S/o.Pattabi was directed to be released on bail as per the order of this Court dated 14.03.2017 made in Crl.M.P.No.3969 of 2017 in Crl.R.C.No.412 of 2017.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.R.C.NO.412 OF 2017

Balu @ Balamurugan

.. Petitioner

Vs.

The State of Tamilnadu Rep.by
The Inspector of Police,
All Women Police Station,
Salem Town

.. Respondent

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to set aside the conviction and sentence passed by the learned I Additional District and Sessions Judge, Salem in C.A.No.77 of 2007 dated 14.02.2017, confirming the sentence and order of conviction by the learned Judicial Magistrate-III, Salem in C.C.No.1559 of 2004 dated 26.04.2007.

For Petitioner : Mr.S.Baskaran
for M/s.V.V.Sairam

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

ORDER

Heard the learned counsel for the revision petitioner and the learned Government Advocate(Crl.Side) for the respondent.



WEB CTS

2. This case is preferred by the 1st accused in C.C.No.1559 of 2004, on the file of the Judicial Magistrate Court, who has been found guilty for the offences punishable under Sections 498 A & 406 of I.P.C., 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 one year Rigorous Imprisonment and to pay a fine of Rs.1,000/-; in default to undergo 3 months S.I.
	U/s. 406 of I.P.C	Found guilty	Convicted and sentenced to undergo one year Rigorous Imprisonment and to pay a fine of Rs.1,000/-; in default to undergo 3 months S.I.
	Section 4 of Dowry Prohibition Act	Found guilty	Convicted and sentenced to undergo one year Rigorous Imprisonment and to pay a fine of Rs.1,000/-; in default to undergo 3 months S.I.

3. As per the F.I.R, the defacto complainant and the petitioner herein got married on 04.12.2003. At the time of marriage, 15 sovereigns of Gold jewellery and Rs.50,000/- was paid to the 1st accused at the promise that the balance 10 sovereigns would be paid within a period of one year. Now the complaint is that the 1st accused had spent all the money and also sold the jewels given to the defacto complainant during her marriage.

4. Though it is stated that he is the owner of the Mill, he did not go for any work and later it was found that he has no job or work as mentioned and he forced the defacto complainant to involve in prostitution to get money. For the



said purpose, the step-mother of the petitioner, his friend Srikanth and his wife Rekha were also joined together to cause cruelty to the defacto complainant by demanding money and forced her to involve in the said prostitution. Final report in this case was also filed for the offence under Sections 406, 498 A & 506(ii) of I.P.C., and Section 4 of Dowry Prohibition Act. Since there was no evidence regarding forcing the defacto complainant for prostitution in the final report, charge under suppression of Moral Traffic Act was dropped.

5. During the course of trial, on the side of the prosecution Nine (9) witnesses were examined as PW.1 to PW.9 and three (3) documents were marked as Ex.P1. to Ex.P3.

6. Considering the evidence, the trial Court convicted the husband of the defacto complainant and the step mother of the defacto complainant, who are A1 and A2. As against A3 and A4, the trial Court found that there is no material evidence to convict them and therefore acquitted. The 1st accused alone preferred an appeal and the appeal came to be dismissed with modification that the substantial period of imprisonment to run concurrently by the revision petitioner.

7. The learned counsel for the petitioner would submit that the marriage with the defacto complainant, who was examined as PW.1, with the revision petitioner herein was an arranged marriage held on 04.12.2003. The defacto complainant hardly lived with him for four months and due to misunderstanding, she left her matrimonial home during the month of March after 3 months. Thereafter, she had lodged a complaint containing false averments as if there was a demand for dowry and she was put to torture and cruelty and also she was facing life threat. Except self serving statement, there is no other evidence to substantiate the charge under Section 498A or 406 of IPC. The witnesses relied by the prosecution are the relatives of PW.1 and neighbours living near her parents house. Though the PW.2 / the mother of PW.1 had not spoken specifically about the nature of jewels or mode of payment of money alleged to have been given as dowry and in spite of the specific admission that 15 sovereigns of gold jewels and Rs.50,000/- has been given, ought to have held the petitioner guilty of offence under Sections 498 A, or Section 4 of DP Act.

8. The learned counsel for the revision petitioner would further pointed out that the trial Court on considering PW.4 and PW.6 as independent witnesses has held the petitioner guilty of demanding dowry, whereas, their evidence clearly indicates that they are not aware of what conspired between the



defacto complainant and the petitioner after the marriage and what are all deposed before the Court are only hearsay. The petitioner counsel would also submit that admittedly the marriage was arranged through one Leela and Krishnamurthy, PW.1 in her evidence specifically stated that along with the accused 1 to 4, Leela and Krishnakumar came to her seeking bribe and participation in the negotiations. While so, the prosecution ought to have examined Leela and Krishnamurthy, who would have stated that the true facts.

9. The learned Government Advocate (Crl.Side) for the respondent would submit that the evidence of PW.1 to PW.6 when read together cogently, prove the demand of dowry and cruelty caused to PW.1, which has forced the defacto complainant to leave the matrimonial house and give a complaint stating that there is threat to her life and she is forced to involve in prostitution. Though allegation of forcing her to prostitute not prove, it does not complete by exonerate from the petitioner herein. The defacto complainant was put to mental and physical cruelty by suppressing the fact that the petitioner is a job less person and man of no moral. The fact that the defacto complainant was able to live with the petitioner herein hardly for 4 months and in that 4 months she has been physically harassed and tortured by the petitioner herein is well proved through evidence. The delay in filing F.I.R., has been properly explained by the defacto complainant herself in the cross examination and therefore, there cannot be any suspicious over the content of the complaint or doubt of embellishment.

10. This Court on perusing the reasonings given by the Courts below finds that both the Courts below have heavily relied upon the evidence of the interested witnesses namely the defacto complainant, her father, mother and neighbours of her house.

11. PW.8 and PW.9, who are supposed to support the prosecution case regarding the allegations that the defacto complainant was forced to prostitution, have turned hostile which goes to show that to justify her withdrawal from the matrimonial home, the defacto complainant has invented such allegations. As far as payment of dowry, PW.3 admits there is no receipt for the purchase of jewels and there is no description of jewels given as dowry. The trial Court as well as the appellate Court had heavily relied upon the witnesses who are interested and failed to note that there is no independent corroborative evidence.

12. No doubt, Conviction can be rendered even based on the sole evidence. Provided, the said evidence is reliable and



inspires confidence of the Court. Unfortunately PW.1 evidence lack reliability. The exaggerated embellishment and falsehood without any corroboration from independent witness, leads to hold that the trial Court finding is perverse and incorrect. Therefore, the revision is liable to be allowed.

13. In the result, this Criminal Revision Case is allowed. The judgment of conviction and sentence passed by the learned I Additional District and Sessions Judge, Salem in C.A.No.77 of 2007 dated 14.02.2017, confirming the sentence and order of conviction by the learned Judicial Magistrate-III, Salem in C.C.No.1559 of 2004 dated 26.04.2007 is set aside. The revision petitioner is set at liberty. Fine amount, if any paid by the accused shall be refunded to him. Bail bond if any executed by the accused shall stand cancelled.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The I Additional District and Sessions Judge,
Salem.
2. The Judicial Magistrate-III, Salem.
3. The Inspector of Police,
All Women Police Station,
Salem Town
4. The Public Prosecutor,
High Court, Madras.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

Cr1.R.C.No.412 of 2017

PM(CO)
RLP(05/07/2022)