



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.R.C.NO.536 OF 2017

K.Devaraj

... Petitioner

Vs.

T.Srimathi

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records and set aside the judgment of the learned VI Additional Sessions Judge, Chennai made in C.A.No.29 of 2013 dated 17.03.2017 confirming the judgment passed by the learned X Metropolitan Magistrate, Egmore, Chennai on 11.01.2013 in C.C.No.15245 of 2003.

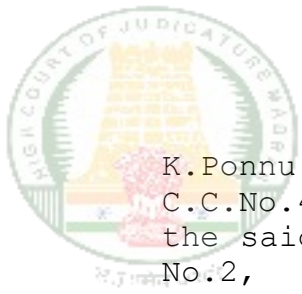
For Petitioner : Mr.V.P.Raju

For Respondent : Mr.B.Manoharan

ORDER

The petitioner is an accused in a private complaint filed by the respondent in C.C.No.15245 of 2003 for offences under Sections 499 & 500 IPC before the X Metropolitan Magistrate and the learned X Metropolitan Magistrate, by judgment dated 11.01.2013, convicted the petitioner and sentenced him to undergo one year simple imprisonment and to pay a sum of Rs.5,00,000/- as compensation. Aggrieved against the same, the petitioner filed an appeal in C.A.No.29 of 2013 before the learned VI Additional Sessions Judge, Chennai. The lower appellate Court by its judgment dated 17.03.2017 confirmed the trial Court's Judgement and dismissed the appeal of the petitioner, against which, the present revision is filed.

2.The gist of the complaint is that the complainant's husband died and the petitioner lodged a complaint to the Sub Inspector of Police, Rajamangalam Police Station against one



K.Ponnu and a case was registered and taken on file in C.C.No.436 of 1995 for offences under Sections 448 & 323 IPC. In the said complaint, he stated that one Ponnu, who is residing at No.2, Palani Street, had illicit relationship with the respondent for three years and the respondent being a widow, has been doing money lending business and for collection of the same, she used to engage musclemen. On coming to know about the same, the respondent filed a private complaint before the District Munsif cum Judicial Magistrate, Ambattur, on 03.07.1996. The learned Judicial Magistrate, Ambattur, forwarded the same to the Inspector of Police, Rajamangalam, under Section 155(2) and thereafter, laid a final report before the District Munsif cum Judicial Magistrate, Ambattur on 06.02.1997. The learned Magistrate took the case on file on 04.03.1997 and assigned C.C.No.132 of 1997. Later, the case was transferred to X Metropolitan Magistrate, Egmore, on 22.03.2003 and taken on file in C.C.No.7083 of 2000 and the X Metropolitan Magistrate passed an order dated 11.09.2003 stating that the case under Sections 499 & 500 IPC to be only a private complaint, filed by the aggrieved person and no police or any body can investigate even with authorization of the Magistrate. Hence, considering the same, invoking the power under Section 258 Cr.P.C. gave liberty and direction to the respondent to file a private complaint for offence under Section 500 IPC. Thereafter, C.C.No.15245 of 2003 came to be filed. During the trial, the respondent was examined as PW1 and through her Exs.P1 to P9 marked. The defence neither examined any witness nor marked any documents. On conclusion of the trial, the trial Court convicted the petitioner and sentenced him to undergo one year simple imprisonment and to pay a sum of Rs.5,00,000/- as compensation and the same was confirmed by the lower appellate.

3.The contention of the learned counsel for the petitioner is that the complaint and 161 statement recorded in C.C.No.436 of 1995 is not of the petitioner but by the concerned Sub Inspector of Police on his own. The petitioner lodged only a typed copy. The insertion made therein was by one Deenadhayan, with whom, the respondent had some money dispute and the petitioner is falsely implicated in this case. The petitioner, Devaraj and the respondent are residing in the same locality. He further submitted that the petitioner is a Malayali and he is not profound and conversant in reading Tamil and he is falsely implicated in this case. Money transaction between the respondent and Devaraj is an admitted fact. In the crossfire between Deenadhayan and the respondent, the petitioner has been falsely implicated on the premise that the petitioner is supporting the said Dheenadayalan. Hence, he prayed for setting aside the conviction and sentence imposed by the Trial Court which was confirmed by the Lower Appellate Court as stated above.



4.The learned counsel for the respondent on the contrary submits that the reply notice of the petitioner would confirm that he had issued such a statement. In the statement, on coming to know about the imputation found in Ex.P1 complaint, the respondent sent a legal notice Ex.P2 on 15.04.1996. The petitioner, after receiving the same, sent a reply Ex.P3 dated 07.05.1996 and private complaint Ex.P4 on 03.07.1996 filed before Ambattur Court. In the reply, the petitioner admits about the complaint and also the imputation statement, but, seeks exception stating that it has been made in good faith and he would fall under Section 499(8) Cr.P.C. Thus, the petitioner causing imputation against the respondent is admitted. He further submitted that at the stage of appeal, the petitioner filed a petition under Section 395 Cr.P.C got into the box examined himself as DW1. During examination, he admitted, though he is a Malayali, hailing from Kerala, he is settled in Tamil Nadu, he has studied in Tamil Medium in ICF Colony School and he is very much conversant and he qualified in all the examination in Tamil which would clearly show that the petitioner is wellversed in Tamil. The defence of the petitioner that Tamil insertion has been made in the complaint Ex.P1 is proved to be false.

5.At this stage, the learned counsel for the petitioner submitted that the petitioner is suffering from various health ailments, his wife is a terminal cancer patient, he incurred huge expenditure, he is a retired person and he is in the evening of his life. He further submitted that the petitioner tendered unconditional apology to the respondent and filed an affidavit to that effect on 16.03.2022, wherein he has stated as follows:

"3.I state that I have no intention of specific defamatory statement to expressing the conduct of the complainant to touching her character in any manner. I hereby declare my unconditional apology before this Hon'ble Court for the defamatory statement to touch the character of the complainant.

4.I further undertake and I assure that I will not interfere against the respondent/complainant Mrs.T.Srimathi and her family members including her children and any other relative in respect of any such manner in their lives."

6.The respondent magnanimously accepted the unconditional apology tendered by the petitioner and feeling contended on proving the point that false allegations were made against her



and she being a widow at the young age with great difficult she sustained herself and brought her children up in their life.

7.Today [20.04.2022], the respondent filed an affidavit stating that the petitioner showing his bonafide submitted a Demand Draft bearing No.330490 dated 12.04.2022 for a sum of Rs.1,50,000/- drawn in favour of Kaakkum Karangal and further paid a sum of Rs.50,000/- as cost. The same was received by the respondent and she undertakes to hand over the Demand Draft to Kaakkum Karangal at the earliest. The copy of the Demand Draft is produced along with the affidavit.

8.In view of the above, no useful purpose will be served by keeping the revision pending. It will be in the interest of both the parties not to keep these proceedings pending, since it will affect their future life and the offence punishable are being compoundable.

9.In the result, the judgment dated 17.03.2017 made in C.A.No.29 of 2013 on the file of the learned VI Additional Sessions Judge, Chennai and the judgment dated 11.01.2013 made in C.C No.15245 of 2003 on the file of the learned X Metropolitan Magistrate, Egmore, Chennai, are set aside. Accordingly, the Criminal Revision Petition is allowed. The petitioner is acquitted of all the charges levelled against him.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The X Metropolitan Magistrate,
Egmore Chennai.
2. The VI Additional Sessions Judge,
Chennai.

Cr1.R.C.No.536 of 2017

JPL(CO)
RLP(04/05/2022)