



CRL A No.54 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	:	09.02.2023
Pronounced on	:	03.03.2023

Coram:

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Criminal Appeal No.54 of 2020

Tamilselvan

... Appellant

Vs.

State rep by its

1. Deputy Superintendent of Police
Tindivanam Sub-Division
Villupuram Taluk

2. Jayanthi

... Respondent

Prayer : Criminal Appeal filed under Sections 374(2) of Criminal Procedure Code, praying to set aside the Judgment in Special Sessions Case No.239 of 2015 dated 06.01.2020 on the file of the Special Court for Exclusive Trial of Cases registered under SC/ST (POA) Act, Villupuram-605 and call for the records and acquit the appellant from all charges.

For Appellant : Mr.S.T.Raja for
Mr.Om Sai Ram

For Respondents : Mr.S.Sugendran
Additional Public Prosecutor - R1
Mr.S.Kousik for
M/s.M.N.Sumathy - R2



CRL A No.54 of 2020

WEB COPY

JUDGMENT

This Criminal Appeal has been filed seeking to set aside the Judgment in Special Sessions Case No.239 of 2015 dated 06.01.2020 on the file of the Special Court for Exclusive Trial of Cases registered under SC/ST (POA) Act, Villupuram and acquit the appellant from all the charges.

2. The respondent police registered a case in Crime No.1073 of 2013 against the appellant for the offences under Sections 294(b), 323, 324, 506(ii) IPC read with 3(1)(x) of SC/ST (POA) Act, 1989 @ into Sections 294(b), 326, 498(A), 506(1) IPC read with 3(1)(x), 3(1)(s), 3(1)(w)(II) SC/ST Act Amendment Ordinance 2014 and 3(2)(V) of SC/ST (POA) 1989 and after investigation, laid charge sheet before the Judicial Magistrate No.1, Dindivanam for the offences under Sections 294(b), 326, 498(A), 506(1) IPC read with 3(1)(x), 3(2)(v) of SC/ST (POA) Act, 1989. The learned Magistrate taken cognizance of the complaint in PRC No.23 of 2014 and after completing the formalities under Section 207 Cr.P.C., committed the case to the Principal District and Sessions Judge, Villupuram since some of the offences in this case are triable by the Court of Session. The learned Principal District and



CRL A No.54 of 2020

WEB COPY

Sessions Judge taken the case on file in Spl.SC.No.239 of 2015 and made over to the Special Court for Exclusive trial of Cases registered under the SC/ST (POA) Act. The Special Court, after completing the formalities, framed the charges for the offences under Sections 506(1), 325, 498(A) IPC and Sections 3(1)(x) of SC/ST Act, 1989.

3. After framing of charges, in order to prove the case of the prosecution, on the side of the prosecution during trial, 23 witnesses were examined as P.W.1 to P.W.23 and 17 documents were marked as Exs.P.1 to P.17 and no material object was exhibited.

4. On completion of examination of prosecution witnesses, when incriminating circumstances culled out from the evidence of prosecution witnesses were put before the accused by questioning under Section 313 Cr.P.C., he denied the same as false and pleaded not guilty. On the side of the defence, no oral evidence was let in however, 2 documents were marked as Exs.R1 and R2.



CRL A No.54 of 2020

WEB COPY

5. On conclusion of trial and hearing of arguments advanced on either side, considering the materials and facts and circumstances of the case, the trial Court found the accused guilty for the offences under Section 506(i), 325, 498(A) IPC and Section 3 (1)(x) of SC/ST Act, 1989 and convicted and sentenced him to undergo 3 years rigorous imprisonment and to pay fine of Rs.1,000/- in default, to undergo, 3 months simple imprisonment for the offence under Section 498(A) IPC; to undergo 7 years rigorous imprisonment and to pay fine of Rs.1,000/- in default, to undergo 3 months simple imprisonment for the offence under Section 325 IPC; to pay fine of Rs.1,000/- in default, to undergo 3 months simple imprisonment for the offence under Section 506(i) IPC; to undergo 3 years rigorous imprisonment and to pay fine of Rs.1,000/- in default, to undergo 3 months simple imprisonment for the offence under Section 3(1)(x) of SC/ST Act 1989. In addition to that, the accused was directed to pay a sum of Rs.2 lakhs to the victim/defacto complainant as compensation and all the sentences were ordered to be run concurrently and the period of imprisonment which was already undergone by the accused during trial proceeding, were set off under Section 428 IPC. Aggrieved over the said Judgment of conviction and sentence, the accused



CRL A No.54 of 2020

has filed the present appeal before this Court.

WEB COPY

6. The case of the prosecution is that the defacto complainant is a member of Scheduled Caste community and the appellant is a non member of Scheduled Caste community. The defacto complainant worked as a servant in the shop of the appellant for 8 years and during which, the appellant on the false promise of marrying the defacto complainant and by stating sweet coated words, forcibly had physical relationship with the defacto complainant due to which, the defacto complainant became pregnant. Thereafter, the appellant refused to marry her. Hence, she informed the same to the parents of the appellant through her parents and subsequently, in the presence of village important persons, the appellant married the defacto complainant on 02.05.2013 and after the marriage, the appellant and the defacto complainant stayed in a rental house during which, the appellant used to humiliate the defacto complainant by stating her caste name and also beaten her. Subsequently, in 3 months, she delivered a girl baby and after discharging from the hospital, on 07.07.2013 when she went to her house, she was informed that the appellant vacated the house. Therefore, she went to the house of



CRL A No.54 of 2020

WEB COPY

the appellant wherein, the brother and sister-in-law of the appellant, scolded her not to come to their house by uttering her caste name. Therefore, she lodged a complaint at All Women Police Station, Dindivanam wherein, the appellant agreed to live with the defacto complainant. Hence, the police conducted register marriage between the appellant and the defacto complainant on 10.07.2013 and thereafter, the defacto complainant went to her parents house since she had just delivered a baby and she stayed in their parents house for 3 months and during such period, the appellant did not visit the defacto complainant and the child. After 3 months, on 06.11.2013 and 07.11.2013 and 10.11.2013, when the defacto complainant went to the shop of the appellant, the appellant scolded and beaten her stating not to come there by uttering her caste name. Again on 11.11.2013, the defacto complainant went to the shop of the appellant. At that time, the appellant scolded as to why she came there and also uttered her caste name. Further the appellant broken the hands of the defacto complainant by attacking her with stick and thrown away the child and also threatened with dire consequences. Subsequently, she was taken to hospital and after obtaining permission from the hospital authority, she lodged a complaint



CRL A No.54 of 2020

before the Dindivanam Police Station.

WEB COPY

7. The learned counsel for the appellant would submit that the complaint was lodged with inordinate delay of 9 days. According to the defacto complainant, the occurrence is alleged to have taken place on 11.11.2013 but the complaint was given only on 20.11.2013. The said inordinate delay of 9 days, was not properly explained. Though it is stated that the defacto complainant was admitted in the hospital immediately after the occurrence, the police did not get the statement of the defacto complainant and register the FIR on the date of her admission in to the hospital or on the next day. Further, as per the version of the defacto complainant, she took treatment in the Government Hospital and on special permission from the hospital, she came and lodged the complaint on 20.11.2013. But as per the Accident Register, the defacto complainant was discharged from the hospital on 17.11.2013 itself. The said discrepancy was also not explained properly. He would further submit that as per Section 4(2)(e) of SC/ST Act, the charge sheet has to be filed within a period of 60 days from the date of FIR. The Hon'ble Supreme Court has observed that in the cases under the SC/ST Act, the



CRL A No.54 of 2020

procedure under Section 4(2)(e) of SC/ST Act has to be followed for filing the charge sheet and not under Section 173 Cr.P.C. But in this case, the FIR was registered on 20.11.2013, whereas the charge sheet was filed only on 20.10.2014 which is beyond the stipulated period and said inordinate delay was also not explained by the prosecution. He would further submit that even as per the deposition of the defacto complainant/P.W.1, the complaint was given in hand written, whereas the complaint annexed with the FIR is a typed version and the same was also not explained as to how the written complaint turned into a typed version. Further, the appellant and the defacto complainant are husband and wife and therefore, the Special Act enacted for the welfare of the SC/ST community, would not applicable to the dispute in matrimonial relationship. The appellant and the defacto complainant are known to each other for several years. Even in the cross examination, the defacto complainant/P.W.1 herself admitted that prior to the marriage, the appellant never discriminated her on the basis of her caste. He would further submit that there was a suit filed by the appellant in O.S.No.283 of 2013 on the file of the District Munsif Court, Dindivanam for declaration of the marriage solemnized between the appellant and the



CRL A No.54 of 2020

defacto complainant as Null and Void and therefore, in order to take vengeance, the defacto complainant has lodged the false complaint against the appellant. Further, there was a domestic violence case filed by the defacto complainant in DVAC No.1 of 2017 wherein, the defacto complainant has stated that the appellant along with 4 others assaulted her on 20.11.2013, whereas contrary to that, the defacto complainant has lodged the present complaint stating that the appellant alone assaulted her which clearly shows that the complaint lodged by the defacto complainant is a motivated one. Further there is no proper wound certificate for the defacto complainant. The discharge summary and the A.R.Copy are also not in a proper format. P.W.19, the doctor who examined the defacto complainant has also stated that the A.R. Copy was not in a proper format. Even either the Scan report or the X-ray report of the defacto complainant was not produced before the Court and without any specific material evidence, the appellant has been convicted which warrants interference. Further, the trial Court has also failed to consider the fact that the witnesses who supported the case of the prosecution viz., P.W.12 to 16 are all belong to the same community of the defacto complainant and they are all belong to the same village of the defacto



CRL A No.54 of 2020

WEB COPY

complainant. Further, the trial Court failed to consider the fact that it is purely a family dispute between the husband and wife and they can sort out the problem before the Family Court itself. But instead of approaching the Family Court, in order to take vengeance and to achieve her norms, the defacto complainant has lodged the false case against the appellant and the Investigating Officer also failed to consider the fact and filed charge sheet against the appellant. The trial Court has also failed to appreciate the entire materials and evidence and erroneously convicted the appellant. Further he would submit that Section 498(A) would not attract as there was no demand of any money or property and without any demand, mere harassment itself would not amount to cruelty. Therefore, Section 498(A) IPC would not attract. In support of his contention, he referred to the decision of the Hon'ble Supreme Court in the case in ***Ravindra Pyarelal Bidlan and Others Vs. State of Maharashtra*** reported in ***1993 Mh.L.J. 658*** and the relevant paragraph is extracted hereunder;

26. Sub-clause (b) of the explanation to section 498-A provides that cruelty means harassment of the woman where such



WEB COPY



CRL A No.54 of 2020

harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or his on account of failure by her or any person related to her to meet such demand. Sub-clause (b) does not make each and every harassment cruelty. The harassment has to be with a definite object, namely to coerce the woman or any person related to her to meet any unlawful demand. Hence, mere harassment by itself is not cruelty. Mere demand for property etc. by itself is also not cruelty. It is only where harassment is shown to have been committed for the purpose of coercing a woman to meet the demands that is cruelty and this made punishable under the Section. In other words, it is not every harassment or every type of cruelty that would attract section 498-A. It must be established that the beating or harassment was with a view to force the wife to commit suicide or to fulfil illegal demands of the husband or the in-laws.



CRL A No.54 of 2020

WEB COPY

The learned counsel for the appellant would further submit that trial Court failed to consider that the appellant and the defacto complainant are husband and wife and the dispute between them was a family dispute and therefore, no offence under the SC/ST Act would attract. Therefore, the Judgment of conviction and sentence passed by the trial Court warrants interference.

8. The learned counsel for the 2nd respondent/defacto complainant would submit that the defacto complainant is a member of Scheduled Caste community and the appellant is a non member of Scheduled Caste community. When the defacto complainant was working as a servant in the shop of the appellant, the appellant under the pretext of marrying the defacto complainant, forcibly had physical relationship with the defacto complainant due to which, the defacto complainant became pregnant and when the defacto complainant asked the appellant to marry her, he refused to marry her by stating her caste. Thereafter, the same was informed to the parents of the appellant and due to the intervention of the village people, he married the defacto complainant and after the marriage, the appellant started to show his real colour and committed both physical



CRL A No.54 of 2020

and mental cruelty on the defacto complainant. After delivery of child, the appellant did not come to take the defacto complainant to his house and when ever the defacto complainant visited the appellant at his shop, he scolded her and also beaten her by uttering her caste name. On the date of alleged occurrence i.e. on 11.11.2013 also, when the defacto complainant went to the shop of the appellant, the appellant scolded her by uttering her caste name and beaten her due to which, the defacto complainant's right hand got broken and she was admitted in the hospital. He would further submit that the evidence of the eyewitness viz., P.W.12 to 14 and P.W.21 clearly proved that the appellant humiliated the defacto complainant and beaten her by stating her caste name and also threatened her with dire consequences. Therefore, the trial Court rightly appreciated the evidence and convicted the appellant. Therefore, there is no merit in the appeal and the appeal is liable to be dismissed.



CRL A No.54 of 2020

WEB COPY

9. The learned Additional Public Prosecutor appearing for the 1st respondent police would submit that the appellant and the defacto complainant/2nd respondent are husband and wife. The defacto complainant belongs to Scheduled Caste Community and the appellant is a non member of Scheduled Caste community. The defacto complainant was examined as P.W.1 and she has clearly stated that when she was working as a servant in the shop of the appellant, the appellant on the false promise of marrying the defacto complainant, forcibly had physical relationship with her and due to that, she became pregnant. Thereafter the appellant refused to marry her since she belongs to Scheduled Caste community. Hence, she informed the same to the parents of the appellant and subsequently, in the presence of village important persons, the appellant married the defacto complainant and after the marriage, the appellant showed his real colour and used to degrade the defacto complainant by using her caste name. Subsequently, she delivered a girl baby and after discharging from the hospital, when she went to the house of the appellant, the brother and sister-in-law of the appellant, scolded her and also humiliated her by uttering her caste name and the appellant also did not come to take her to his home. Therefore, the defacto complainant



CRL A No.54 of 2020

lodge a complaint before the All Women Police Station, Dindivanam.

Subsequently, the appellant agreed to live with the defacto complainant.

Hence, the police in the All Women Police Station, conducted register

marriage between the appellant and the defacto complainant. Thereafter,

the defacto complainant went to her parents house since he had delivered

a baby and after 3 months, whenever, the defacto complainant went to

the shop of appellant, he scolded and assaulted her by uttering her caste

name. On 11.11.2013, when the defacto complainant went to the shop of

the appellant, the appellant scolded the defacto complainant as to why

she came there and also uttered her caste name. Further the appellant

broken the hands of the defacto complainant by attacking her with stick

and thrown away the child on the floor and also threatened her with dire

consequences. Subsequently, she was admitted in the hospital at

Villupuram Government Hospital, Mundiambakkam, and after obtaining

special permission from the hospital authority, she lodge a complaint

before the Dindivanam Police Station. P.W.12 to 14 and P.W.21 are the

eyewitnesses to the incident took place on 11.11.2013 and they have

clearly stated that on the date of occurrence, the appellant scolded the

defacto complainant with her caste name and also beaten her due to



CRL A No.54 of 2020

which, her hand got broken and further, the appellant thrown away the child on the floor. The doctor/P.W.19 who examined the defacto complainant has clearly stated on 11.11.2013 at about 7.10 p.m. the victim came to the hospital for treatment and there was a swelling on her right hand elbow and abrasion was also found. Subsequently, she was referred to the Villupuram Government Medical College Hospital at Mundiambakkam for further treatment wherein, she took treatment between 11.11.2013 to 17.11.2013. The wound certificate issued to the defacto complainant was marked as Ex.P.7. Therefore, the prosecution proved its case beyond all reasonable doubt. Hence, there is no merit in the appeal and the appeal is liable to be dismissed.

10. Heard the learned counsel for the appellant, the learned counsel for the 2nd respondent/defacto complainant and the learned Additional Public Prosecutor appearing for the 1st respondent police and also perused the materials available on record.



WEB COPY

11. In order to substantiate the charges framed against the appellant, on the side of the prosecution during trial, 23 witnesses were examined out of which, the victim/defacto complainant was examined as P.W.1.

12. P.W.1 in her evidence has clearly narrated that she belongs to Scheduled Caste community and the appellant is a non member of Scheduled Caste community. The defacto complainant worked as a servant in the shop in which the appellant was the owner during which, the appellant on the false promise of marrying the defacto complainant and also by stating sweet coated words, forcibly had physical relationship with her and due to which, the defacto complainant became pregnant. Thereafter the appellant refused to marry her by pointing out her caste. Hence, she informed the same to the parents of the appellant and subsequently, in the presence of her village important persons, the appellant married the defacto complainant and after marriage, the appellant and the defacto complainant resided separately in a rental house. She has further stated that before marriage, when the defacto



CRL A No.54 of 2020

complainant was working in the shop of the appellant, the appellant never spoken about her caste but after marriage, the appellant used to degraded her by using her caste name. Subsequently in 3 months, she delivered a girl baby and after discharging from the hospital, when she went to her house, she was informed that the appellant vacated the house. Hence, she went to the house of the appellant at Kattusiviri wherein, the brother and sister-in-law of the appellant scolded her as to why she came there and also humiliated her by uttering her caste name. Therefore, she lodged a complaint in All Women Police Station, Dindivanam where, the appellant agreed to live with the defacto complainant. Hence, the police, conducted register marriage between the appellant and the defacto complainant. Thereafter, since she had delivered a baby, she stayed at her parents house and after 3 months, whenever the defacto complainant went to the shop of the appellant, the appellant scolded her and also uttered her caste name and when she went to the house of the appellant, the brother and sister-in-law of the appellant scolded her by uttering her caste name. On the date of occurrence i.e. on 11.11.2013, when the defacto complainant went to the shop of the appellant, the appellant scolded her with her caste name and also attacked with stick due to which, the hands of the defacto



CRL A No.54 of 2020

WEB COPY

complainant got broken. Further, the appellant thrown away the child and also threatened her with dire consequences. Subsequently, she went to Dindivanam Government Hospital for treatment wherein, she was referred to Mudiambakkam Government Hospital where she undergone a surgery for her hand fracture. She has further stated that after obtaining permission from the Mundiambakkam Hospital, she lodged the complaint before the Dindivanam Police Station.

13. P.W.12 to 14 and P.W.21 have clearly stated that on 11.11.2013 at about 7.00 p.m., there was a quarrel between the appellant and the defacto complainant during which, the appellant scolded the defacto complainant and beaten her by wording her caste name and also threatened her with dire consequences. Further, they have stated that due to the assault made by the appellant, the defacto complainant's right hand got broken and they took her to hospital.

14. P.W.15 is the mahazar witness and he has spoken about the Police and Deputy Superintendent of Police visiting the place of occurrence and preparing mahazar on 20.11.2013.



CRL A No.54 of 2020

WEB COPY

15. P.W.16 who is working in a shop near the shop of the appellant has stated that on 11.11.2013 at about 7.00 p.m., there was a quarrel between the appellant and the defacto complainant and that the child was on the floor.

16. The doctor who treated the defacto complainant was examined as P.W.19 and she has clearly stated that on 11.11.2013 at about 7.10 p.m. the victim came to the hospital for treatment and there was swelling in her right hand elbow and subsequently, she was referred to the Villupuram Government Medical College Hospital at Mundiambakkam for further treatment and that she was admitted in the hospital between 11.11.2013 to 17.11.2013. The wound certificate of the defacto complainant was marked as Ex.P.7.

17. Ex.P.5 and Ex.P.6 are the community certificate of the defacto complainant and the appellant issued by P.W.18 which clearly show that the defacto complainant is a member of Scheduled Caste community and the appellant is a non member of Scheduled Caste community.



WEB COPY

18. The main contention of the learned counsel for the appellant is that it is only a family dispute between the husband and wife and therefore, the offence under the SC/ST Act would not attract. But a reading of the evidence of the victim/defacto complainant/P.W.1 clearly shows that it is not the case where the appellant without showing any discrimination on the caste of the defacto complainant, loved her with affectionate and married her. The appellant on the false promise of marrying the defacto complainant and also by stating sweet coated words, forcibly had physical relationship with the defacto complainant due to which, she became pregnant and subsequently he refused to marry her and thereafter, due to compelled circumstances, he married the defacto complainant in order to escape from the clutches of law. Therefore, the contention of the learned counsel for the appellant is not acceptable.

19. The further contention of the learned counsel for the appellant is that the occurrence is alleged to have taken place on 11.11.2013, whereas the complaint was registered only on 20.11.2013 and there was an inordinate delay of 9 days in lodging the complaint. However, from the evidence of the defacto complainant it is clearly seen that the defacto complainant who is a poor woman who sustained grievous injury due to



CRL A No.54 of 2020

the assault made by the appellant, has gone to hospital for treatment.

Actually, the hospital authority should have informed to the jurisdictional police. But the evidence of P.W.1 shows that when she was under treatment, she has got a special permission from the hospital and lodged the complaint before the Dindivanam Police Station. Therefore, mere delay in lodging the complaint may not be a sole ground to disbelieve the evidence of the victim/defacto complainant.

20. Further, the learned counsel for the appellant has pointed out that the defacto complainant has stated that while she was admitted in the hospital, she took permission from the hospital and lodged the complaint on 20.11.2013, whereas the discharge summary of the defacto complainant shows that she was discharged from the hospital on 17.11.2013 itself. However, the defacto complainant/P.W.1 in her cross examination has clearly stated that after discharging from the hospital on 17.11.2013, on 20.11.2013 she lodged the complaint and again admitted in the hospital and she underwent for a surgery in her hand on 21.11.2013. Further, a careful reading of the evidence of the doctor/P.W.19 and Ex.P.7/wound certificate clearly show that the elbow



CRL A No.54 of 2020

WEB COPY

of the defacto complainant got dislocated and the defacto complainant took further treatment in the Villupuram Government Medical College Hospital at Mundiambakkam between 11.11.2013 to 17.11.2013. Further, the doctor has given opinion that the injury sustained by the defacto complainant is grievous in nature and the elbow of the right hand of the defacto complainant was dislocated. Therefore, the evidence of P.W.1 has corroborated with medical evidence.

21. Further the learned counsel for the appellant has contended that as per the deposition of P.W.1/defacto complainant, the complaint was given in written, whereas the complaint annexed with the FIR is a typed one. However, it is seen from the records that the complaint was lodged by the defacto complainant on 20.11.2013, whereas she was examined before the trial Court as witness only on 01.06.2016 which is after 2½ years from the date of complaint. A poor woman who suffered physically and mental agony, she would not be able to say exactly what had happened 2½ years back. Therefore, mere discrepancies in lodging the complaint and mode of complaint may not be a sole ground to throw the entire evidence of the victim.



WEB COPY

22. Further, the evidence of P.W.12 to 16 and 21 clearly shows that on 11.11.2013 at about 7 p.m., there was an incident in the shop of the appellant. P.W.12 to P.W.14 and P.W.21 have clearly stated that at the time of occurrence, the appellant scolded the defacto complainant by uttering her caste name and beaten her and also thrown the child on the floor and threatened her with dire consequences. Therefore, the evidence of P.W.1/defacto complainant was corroborated with the evidence of P.W.12 to 14 and P.W.21. Therefore, the charge for the offence under Section 506(i) IPC is proved. Further, as stated above, since the defacto complainant is a member of Scheduled Caste Community and the appellant is the non member of Scheduled Caste Community, the offence committed by the appellant falls under the SC/ST (POA) Act.

23. The learned counsel for the appellant contended that mere harassment would not attract Section 498(A) IPC unless there is a demand of money or property. For better understanding, Section 498(A) IPC is extracted hereunder;

Section 498(A)IPC



CRL A No.54 of 2020

WEB COPY

Husband or relative of husband of a woman subjecting her to cruelty- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.- For the purposes of this section, "cruelty means"-

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (Whether mental or physical) of the woman; or

(b) ...

A careful reading of Section 498(A) IPC shows that it is nothing to do with any demand. The fact remains that the appellant and the defacto complainant are husband and wife and the main allegation is that the appellant degraded the defacto complainant by wording her caste name and also attacked her due to which, she sustained injuries. Therefore, on a perusal of the entire evidence of the prosecution witnesses and a careful reading of explanation (a) to Section 498(A) IPC, this Court finds that the appellant has committed cruelty on the defacto complainant and therefore, the offence committed by the appellant falls under Section



CRL A No.54 of 2020

WEB COPY

498(A) IPC and that the citation referred to by the learned counsel for the appellant is not applicable to the present case on hand.

24. Though the learned counsel for the appellant stated that the defacto complainant herself admitted that prior to the marriage the appellant treated her with dignity and he never uttered caste name, from the evidence of P.W.1/defacto complainant and other corroborative witnesses/P.W.12 to P.W.14 and P.W.21, it is very clear that it is not the case that the appellant happily married the defacto complainant forgetting about her caste but he married her only in order to escape from the clutches of law on certain compelled circumstances. Subsequently, the appellant has filed a suit for divorce which clearly shows the intention of the appellant. Therefore, from the evidence of the prosecution witnesses, it is clearly seen that the appellant has harassed the victim/defacto complainant and caused her mental cruelty by uttering her caste name and he has also made physical assault on her. Though the learned counsel for the appellant contended that either the Scan report or the X-ray report of the defacto complainant was not produced before the Court, mere non marking of Scan and X-ray report may not be a sole ground to disbelieve



CRL A No.54 of 2020

WEB COPY

the evidence of the victim/defcto complainant. The doctor/P.W.19 who issued the wound certificate/Ex.P.7 has given opinion that the injury sustained by the defacto complainant was grievous in nature and the defence has not proved any contra evidence against Ex.P.7 and he has not disputed Ex.P.7. Therefore, it is proved that the appellant has committed the offence punishable under Section 325 IPC.

25. This Court being an appellate Court as a final Court of fact finding, while re-appreciating the entire evidence finds that the appellant has committed the charged offences as observed by the trial Court and this Court does not find any perversity in the appreciation of evidence.

26. Therefore, this Court finds no merit in the appeal and there is no reason to interfere with the findings and Judgment of conviction and sentence passed by the trial Court. Therefore, this Criminal Appeal is liable to be dismissed.

27. Accordingly, this Criminal appeal is dismissed. The respondent police is directed to secure the appellant to undergo the remaining period



CRL A No.54 of 2020

of sentence if any.

WEB COPY

03.03.2023

ksa-2

Index:Yes/No



CRL A No.54 of 2020

WEB COPY

To

1. The Special Court for Exclusive Trial of Cases registered
under SC/ST (POA) Act, Villupuram
2. Deputy Superintendent of Police
Dindivanam Sub-Division
Villupuram Taluk
3. The Public Prosecutor Officer, High Court, Madras
4. The Section Officer, Criminal Section, High Court, Madras.



WEB COPY



CRL A No.54 of 2020

P.VELMURUGAN, J

ksa-2

**Pre-Deliver Order in
Criminal Appeal No.54 of 2020**

03.03.2023