



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2023

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH**Crl.A.No.281 of 2015**

Vinodha
W/o.Lasar @ Selvaraj

.. Appellant/
De facto Complainant

.VS.

1.State Rep.by
Inspector of Police
All Women Police Station
Gudalur
The Nilgiris District.
Cr.No.1/2008

.... 1st Respondent/Complainant

2.Lasar @ Selvaraj

3.S.Joseph

4.Vasanth

5.Grecy Rose Mery

.. Respondents 2 to 5/
Accused 1 to 5

Criminal Appeal filed under Section 372 of the Code of Criminal Procedure, 1973, to set aside the judgment dated 16.2.2015 passed in C.C.No.215/2008, by the District Munsif cum Judicial Magistrate Court, Gudalur, the Nilgiris District.



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For Appellant	Mr.M.Karthik for Mr.I.C.Vasudevan
For Respondents	Mr.L.Baskaran Government Advocate (Crl Side) for R1 Mr.P.Sivakumar for R2 to R5

JUDGMENT

This criminal appeal has been filed against the judgment and order passed by the District Munsif cum Judicial Magistrate, Gudalur in C.C.No.215 of 2008, dated 16.02.2015, acquitting the accused persons [A1 to A4] from all charges.

2.The case of the prosecution is that A1 is the husband of the de facto complainant (PW.1). A2 and A3 are the father-in-law and mother-in-law and A.4 is the sister-in-law of PW.1. A1 and PW.1 got married on 29.8.2007 at Erode. Even before the marriage, they had a love affair for nearly five years. The allegation made against the accused persons is that even before the marriage, there was a demand for dowry and the father of PW.1 was able to give 10 sovereigns of gold and Rs.7,000/-. Even after the marriage, PW-1 was harassed and on 26.12.2007, at about 8.15 pm., she was criminally intimidated by the accused persons to bring dowry and was threatened that she will be burn to death. PW.1 was also subjected to cruelty on account of demand for dowry.



3.The above incidents resulted in PW.1 lodging a complaint [Ex.P1.) on 29.01.2008 and based on the same, an FIR [Ex.P6] was registered on 30.01.2008 at about 11.30 am., in Crime No.1 of 2008, for offence u/s. 498(A) and 506(ii) IPC and Section 4 of the Dowry Prohibition Act, 1961.

4.The investigation was taken up by PW.9 and he examined the witnesses and recorded their statements under Section 161(3) Cr.PC. Ultimately, on completion of the investigation, the final report was filed before the Trial Court as against four accused persons.

5.The Trial Court framed charges against the accused persons [A1 to A4] for offences u/s. 498(A) and 506(ii) IPC and Section 4 of the Dowry Prohibition Act, 1961. When these charges were put to these accused persons, the same was denied as false.

6.The prosecution examined PW-1 to PW-9 and marked exhibits P.1 to P.8 and identified and marked M.O.1. The defence examined DW.1 and marked Ex.D.1 to Ex.D.3. The incriminating evidence that was collected during the course of trial was put to the accused persons when they were questioned under Section 313 (1)(b) Cr.PC., and they denied the same as false.



7.The Trial Court on considering the facts and circumstances of the case and on examining the oral and documentary evidence, came to a conclusion that the prosecution has not proved the case beyond reasonable doubts against the accused persons and accordingly, the accused persons were acquitted from all charges. Aggrieved by the same, the complainant/PW.1 has filed this Criminal Appeal.

8.Heard Mr.M.Karthik, learned counsel for the appellant and Mr.L.Baskaran, learned Government Advocate (Crl.Side) for R1/State and Mr.P.Sivakumar, learned counsel for R2 to R5.

9.The main witnesses in this case are the complainant/PW-1, her father PW-2 and her brothers PW-3 to PW-5.

10.The Trial Court on analysing the above evidence, came to a conclusion that there is contradiction between the evidence of the above witnesses. That apart, the evidence of PW.2, who is the father of PW.1 completely falsifies the evidence of PW.1 since he states in his evidence that he went to the matrimonial home on 26.12.2007, along with his daughter and he stayed there overnight and went back to his native place on 27.12.2007. Until he left, he found PW.1 to be happily living with A1. If this version given by PW.2 is taken to its logical end, it can only be held that the evidence of PW.1 is exaggerated and it has been improved in the course of evidence.



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11.The evidence of PW.3 to PW.5 and also that of PW.6 and PW.7 becomes unbelievable since they claimed to have been present at Mayar on the date of incident and whereas PW.1 and PW.2 do not state about the presence of PW.3 to PW.7. A.1 had also examined himself as DW.1 and marked documents Ex.D.1 to Ex.D.3, which shows that the very presence of A.1, when the incident is said to have taken place on 26.12.2008 at 8.15 pm., becomes doubtful.

12.The Trial Court has considered all these factors and has come to a conclusion that the evidence of these witnesses are unreliable to sustain the charges against the accused persons. That apart, the Trial Court has also taken into consideration the evidence of PW.1, who states that she gave a written complaint to the police and whereas the complaint that was marked as Ex.P-1 was a computer printout complaint. That apart, the incident had taken place on 26.12.2007 and whereas the complaint was given only on 29.1.2008 and there was absolutely no explanation as to why there was such an exorbitant delay in giving the complaint.

13.The findings rendered by the Trial Court on appreciation of evidence is a "possible view". The same cannot be interfered by this Court in an appeal against acquittal and the law on this issue is too well settled. The findings of the Trial Court do not suffer from any perversity and it is in line



with the evidence available on record and hence, there are no grounds to interfere with the same.

14.In the result, the judgment and order passed by the District Munsif cum Judicial Magistrate Court, Gudalur, Nilgiris District, made in C.C.No.215 of 2008, dated 16.2.2015, is hereby confirmed and this Criminal Appeal stands dismissed.

15.03.2023

KP

Internet : Yes/No

Index : Yes/No

Speaking Order :Yes/No

Neutral Judgment :Yes/No



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To

1. District Munsif cum Judicial Magistrate Court,
Gudalur, Nilgiris District.
2. Inspector of Police
All Women Police Station
Gudalur
The Nilgiris District.
3. The Public Prosecutor
High Court, Madras.



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N.ANAND VENKATESH,J.

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