



Crl.R.C.No.269 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.269 of 2020

1.Narendirakumar
2.Iyyanar
3.Tamil Selvi

... Petitioners

Vs.

State represented by the SHO,
All women Police Station,
Villianur, Puducherry.
(Crime No.9 of 2013)

... Respondent

Prayer: Criminal Revision Petition filed under Section 397 read with 401 of Criminal Procedure Code to set aside the order made in Crl.A.No.1 of 2019 dated 29.01.2020 on the file of IInd Additional Sessions Judge, Puducherry.

For Petitioners : Mr.Prakash Adia Padam
for Mr.V.Moorthi

For Respondent : Mr.V.Balamurugane
Public Prosecutor (Puducherry)

ORDER

This Criminal Revision case has been filed by the petitioner as against the order in Crl.A.No.1 of 2019 dated 29.01.2020 on the file of II Additional



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Sessions Court, Puducherry.

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2.The petitioners are A1 to A3 in Crime No.9 of 2013 for the offences under Section 498-A and 506(i) I.P.C. and also under Section 4 of the Dowry Prohibition Act read with Section 34 I.P.C.

3.After investigation, charge sheet was laid by the prosecution before the Judicial Magistrate, Puducherry. The learned Judicial Magistrate had taken the charge sheet on file in C.C.No.17 of 2014.

4.The trial Court, upon perusing the records, had framed charges as against the accused persons under Sections 498-A and 506(i) I.P.C and Section 4 of the Dowry Prohibition Act, read with Section 34 I.P.C. The prosecution, in order to prove the case, has examined as many as 9 witnesses viz., PW1 to PW9 and also marked Exs.P1 to P5. On the side of the defence, no witness was examined. Upon appreciating the evidence, the learned Chief Judicial Magistrate had penned down that the prosecution had proved the guilt of the accused persons A1 to A3. So, the trial Court found A1 and A3 guilty for the offences punishable under Section 498-A IPC and Section 4 of Dowry Prohibition Act read with 34 I.P.C and A2 was found guilty of the offences



under Section 498-A, 506(i) I.P.C and Section 4 of Dowry Prohibition Act read with 34 I.P.C and convicted them under Section 248(2) of Cr.P.C. A1 to A3 were sentenced to undergo Rigorous Imprisonment for one year each for the offence under Section 498-A I.P.C. and to pay a fine of Rs.1,000/- each, in default to undergo Simple Imprisonment for one month each. A1 to A3 are also sentenced to undergo Rigorous Imprisonment for one year each for the offence under Section 4 of Dowry Prohibition Act and also to pay a fine of Rs.1,000/-, each in default to undergo Simple Imprisonment for one month each. A2 is sentenced to undergo Simple Imprisonment for one year for the offence under Section 506(i) I.P.C. The sentences imposed on the accused were ordered to run concurrently. The period of sentence already undergone by the accused was ordered to be set off in terms of Section 428 Cr.P.C. A1 and A3 are found not guilty for the offence under Section 506(i) I.P.C. and they are acquitted of the said charge and are ordered to be set at liberty in terms of Section 248(1) of Cr.P.C. For better understanding, the conviction and sentence are tabulated below:-

S.NO	RANK	CONVICTION	SENTENCE	FINE
1.	A1	1)Under section 498-A I.P.C and	1)One year rigorous	1)Rs.1,000/- and in default



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S.NO	RANK	CONVICTION	SENTENCE	FINE
		Section 4 of Dowry Prohibition Act read with 34 I.P.C	imprisonment for offence under Section 498-A I.P.C 2)one year rigorous imprisonment for the offence under Section 4 of Dowry Prohibition Act	to undergo simple imprisonment for one month each 2)Rs.1,000/- and in default to undergo simple imprisonment for one month each
2.	A2	1)Under section 498-A, 506(i) I.P.C and Section 4 of Dowry Prohibition Act read with 34 I.P.C	1)One year rigorous imprisonment for offence under Section 498-A I.P.C 2)one year rigorous imprisonment for the offence under Section 4 of Dowry Prohibition Act 3)One year simple imprisonment for the offence under Section 506(i) I.P.C.	1)Rs.1,000/- and in default to undergo simple imprisonment for one month each 2)Rs.1,000/- and in default to undergo simple imprisonment for one month each
3.	A3	1)Under section 498-A I.P.C and Section 4 of Dowry Prohibition Act read with 34 I.P.C	1)One year rigorous imprisonment for offence under Section 498-A I.P.C	1)Rs.1,000/- and in default to undergo simple imprisonment for one month



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S.NO	RANK	CONVICTION	SENTENCE	FINE
			2)one year rigorous imprisonment for the offence under Section 4 of Dowry Prohibition Act	each 2)Rs.1,000/- and in default to undergo simple imprisonment for one month each

5. Aggrieved by the above said judgment of conviction imposed by the learned chief Judicial Magistrate and sentence all the accused had preferred an appeal before the Sessions Court, Puducherry in Crl.A.No.1 of 2019 and the same was made over to the IIInd Additional Sessions Judge, Puducherry and the learned Additional Sessions Judge, after hearing the arguments of either side, confirmed the conviction and modified the sentence imposed by the learned Chief Judicial Magistrate. The modified sentence is tabulated hereunder:-

S.NO	RANK	CONVICTION	SENTENCE	FINE
1.	A1	1)Under section 498-A I.P.C and Section 4 of Dowry Prohibition Act read with 34 I.P.C	1)One year rigorous imprisonment for offence under Section 498-A I.P.C	1)Rs.1,000/- and in default to undergo simple imprisonment for one month each



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<i>S.NO</i>	<i>RANK</i>	<i>CONVICTION</i>	<i>SENTENCE</i>	<i>FINE</i>
			2)one year rigorous imprisonment for the offence under Section 4 of Dowry Prohibition Act	2)Rs.1,000/- and in default to undergo simple imprisonment for one month each
2.	A2	1)Under section 498-A I.P.C and Section 4 of Dowry Prohibition Act read with 34 I.P.C	1)One year rigorous imprisonment for offence under Section 498-A I.P.C 2)one year rigorous imprisonment for the offence under Section 4 of Dowry Prohibition Act	1)Rs.1,000/- and in default to undergo simple imprisonment for one month each 2)Rs.1,000/- and in default to undergo simple imprisonment for one month each
3.	A3	1)Under section 498-A I.P.C and Section 4 of Dowry Prohibition Act read with 34 I.P.C	1)One year rigorous imprisonment for offence under Section 498-A I.P.C 2)one year rigorous imprisonment	1)Rs.1,000/- and in default to undergo simple imprisonment for one month each 2)Rs.1,000/- and in default



<i>S.NO</i>	<i>RANK</i>	<i>CONVICTION</i>	<i>SENTENCE</i>	<i>FINE</i>
			for the offence under Section 4 of Dowry Prohibition Act	to undergo simple imprisonment for one month each

6. Aggrieved by the same, petitioners have filed the present Criminal Revision case.

7. Learned counsel for the petitioners submitted that the A1 and the de-facto complainant fell in love for more than 10 years and subsequently, both the parents of the A1 and the de-facto complainant performed their marriage as an arranged marriage. The petitioners/ A1 to A3 never demanded any dowry or jewels or money from the de-facto complainant. The 1st petitioner/ A1/ A1 filed a petition for divorce before the Family Court, as a counter blast to that divorce petition, the de-facto complainant lodged a complaint before the respondent Police for cruelty and dowry demand. He further, contended that the 1st petitioner/ A1 and the de-facto complainant used to go to their work place in the morning and used to come only in the late night to the house only for the purpose of sleeping. The 3rd petitioner/ A3 is working as a Noon-Meal Organizer and she also used to go to her work in the morning and return only in



the night. There was no occasion for them to meet each other and there is no possibility of demanding dowry and causing any cruelty. Therefore, from the evidence of all the relatives and parents of the *de-facto* complainant, the prosecution has foisted a false case against them. During cross examination PW1 admitted that they did not demand any dowry. Despite both the trial Court as well as the Appellate Court not having appreciated or re-appreciated the evidence, the trial Court erroneously convicted A1 to A3 for the charged offences and there are no materials to prove that the petitioners demanded dowry and in order to meet out the dowry, they also caused cruelty on the *de-facto* complainant. The Appellate Court also erroneously confirmed the judgment of conviction and modified the sentence imposed by the trial Court.

8.Learned counsel for the petitioners/ A1 to A3 submitted that all the witnesses are relatives and they are all interested witnesses and their evidence cannot be taken to prove either demand of dowry or cruelty. He further submitted that the Doctor who gave the treatment, to the victim was not examined as a witness. The Doctor who was examined as witness had not given treatment to the victim/ de-facto complainant. The medical evidence of the Doctor was not helpful to the prosecution to prove the case that there was



demand of dowry and cruelty. Therefore, both the trial Court as well as the Appellate Court have failed to appreciate and re-appreciate the evidence, which warrants interference by this Court.

9.Learned Public Prosecutor (Puducherry) appearing for the respondent-police submitted that the 1st petitioner/ A1 and the *de-facto* complainant (PW1) fell in love with each other, and their marriage was an arranged marriage. But, subsequent to their marriage, the accused persons showed their real colour and started demanding dowry. Since the de-facto complainant could not meet out the dowry demanded by them, they caused cruelty and also went to the extent of physical abuse and also caused physical cruelty and at last the de-facto complainant could not bear their torture, and ultimately she consumed drugs. Even at that time, the 1st petitioner/ A1 and the de-facto complainant were in the house. Even 1st petitioner/ A1 (husband of the victim) did not take care and even he did not take the de-facto complainant to the hospital for treatment. Only on the next day, he informed the mother-in-law of the de fact complainant and the mother-in-law in turn informed the mother of the de-facto complainant and thereafter the *de-facto* taken to the hospital for treatment and also the evidence of PW1 clearly shows that there was a demand of dowry and cruelty and also



the victim's life was threatened. Therefore, both the trial Court as well as the Appellate Court have rightly appreciated and re-appreciated the evidence. The Appellate Court had modified the sentence alone and confirmed the conviction of the petitioner. Therefore, there are no merits in this Criminal Revision case and the same is liable to be dismissed.

10. Heard the learned counsel appearing for the petitioners/ A1 to A3 and the learned Public Prosecutor (Puducherry) and perused the materials available on records.

11. The specific case of the prosecution is that on August 20, 2012 and also after marriage, all the petitioners started to demand dowry and they harassed the de-facto complainant and she was subjected to cruelty, dowry demand and she was threatened with dire consequences of her life and she was also harassed. Pursuant to the complaint, the respondent registered a case for the offences under Sections 498-A, 506(i) I.P.C. and also Section 4 of the Dowry Prohibition Act.

12. A1 is the husband of the de-facto complainant, A2 and A3 are the in-



laws of the de-facto complainant.

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13.In order to substantiate the charges framed against A3, on the side of prosecution, totally 9 witnesses were examined as PW1 to PW9 and 5 documents were marked as Ex.P1 to P5. Out of 9 witnesses, PW1/ de-facto complainant / victim was examined as PW1. The evidence of PW1 is clear to show the demand of the dowry and she was caused mental and physical cruelty and that the 2nd accused also threatened her with dire consequences. PW2 is the mother of PW1. PW3, who is the brother of the victim, has clearly spoken about the demand of dowry and cruelty caused by them. The Doctor, who gave the treatment to PW1 was examined as PW5 and the evidence of PW5 Doctor clearly shows that the de-facto complainant attempted to commit suicide by administering pills and therefore, from the evidence of PW1 to PW4 and also PW5 Doctor, it is clear that the prosecution has proved its case beyond all reasonable doubt to show that there was a demand of dowry and cruelty.

14.Admittedly, in this case, the marriage was solemnized between PW1 and de-facto complainant on 07.06.2012, and they lived happily only for two months. Thereafter, the petitioners had shown their real colours and started



demanding dowry from the de-facto complainant and in order to meet out the

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dowry, they started causing mental as well as physical agony and cruelty and the father-in-law and mother-in-law also joined with the husband of the de-facto complainant. All of them demanded dowry and threatened PW1 with dire consequences and also caused life threat. Therefore, based on the materials available on record, the trial Court framed the charges and prosecution had proved the charges framed against the petitioners. However, the learned counsel for the petitioner submitted that since it was a love marriage, there was no occasion to demand dowry. But, the evidence on record shows that on the date of marriage, they did not demand dowry. But soon after the marriage, they started demanding dowry. In order to meet out the same, they caused cruelty, both mentally as well as physical and the evidence of PW1 to PW5 clearly proves the same. The trial Court, while appreciating the evidence, convicted the accused persons as stated above. When the petitioners approached the Appellate Court and the Appellate Court, after hearing arguments, re-appreciated the evidence and confirmed the conviction, but, however, the sentence was modified as stated supra. Being the Revision Court, scope of the revision is very limited and the revision Court cannot sit in the arm chair of the Appellate



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Court and cannot re-appreciate the entire evidence and the finding already rendered by the Courts below.

15.In the above circumstances, this Court does not find any perversity, illegality and irregularity in appreciation of evidence by the Courts below. Therefore, this Court does not interfere with the impugned judgment of the Appellate Court. There being no merits in the Revision, the same is liable to be dismissed.

16.Accordingly, this Criminal Revision case is dismissed, confirming the conviction and sentence imposed on the petitioners/ A1 to A3 by the Appellate Court. The sentence imposed on the petitioners shall be set off under Section 428 of Cr.P.C. The trial Court is directed to take steps to secure their custody if they are not secured, to undergo the remaining sentence, if any.

04.01.2023

Index: Yes/ No
Speaking Order : Yes/ No
Neutral Citation: Yes/ No
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- 2.The Public Prosecutor (Puducherry),
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P.VELMURUGAN,J.

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