



Criminal Appeal No.307 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:03.03.2023

**CORAM:
THE HONOURABLE MR. JUSTICE D.BHARATHA
CHAKRAVARTHY**

Criminal Appeal No.307 of 2016

C.Ilaiyaraja

... Appellant/Accused

Vs.

State of Tamil Nadu rep.by
The Inspector of Police,
W18-All Women police Station
M K B Nagar, Chennai.
(Crime No.12 of 2013)

...Respondent/Complainant

Prayer : Criminal Appeal filed u/s.374(2) of the Code of Criminal Procedure is filed to set aside the order passed by the Hon'ble Sessions Judge, (Mahalir Needhimandram) Chennai, in S.C.No.249 of 2014 on 05.04.2016 and acquit the appellant / accused in Crime No.12 of 2013 on the file of Inspector of Police, W18 All Women Police Station, Chennai District.



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For Appellant : Mr.K.Sivakumar

For Defacto Complainant: Mr.R.Y.George Williams

For Respondent : M/s.R.Kishore Kumar
Government Advocate (Crl.Side)

JUDGMENT

Mr.C.Illaiyaraja, the sole accused in Crime No.12 of 2013 has filed this appeal aggrieved by the judgment of the Hon'ble Session's Judge (Mahalir Needhimandram) Chennai, dated 05.04.2016 in S.C.No. 249 of 2014 in and by which he was found guilty for the offence under Section 498(a) of the Indian Penal Code and was sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.10,000/-, and in default of payment of the fine, he has to undergo 6 months of rigorous imprisonment, and the offence under Section 323 of the Indian Penal Code and was sentenced to undergo three months simple imprisonment and to pay a fine of Rs.1,000/-, and in default, to undergo further period of two weeks simple imprisonment.



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2. When this matter came up for hearing, considering that the issue was between the husband and wife, this Court directed the respondent Police to inform PW1/K.Chitra who is the wife/defacto complainant, in this case, about the hearing of the complaint and the accused was also present. Since PW1 appeared before this Court, learned counsel Mr.George Williams is also permitted to appear on behalf of PW1 as in this case the compromise talks were undertaken. In that view of the matter the registry is directed to accept the Vakalatnama of the learned counsel Mr.George Williams and place on record. After conciliation by this Court and by both sides' learned counsel, they have amicably resolved the issues between themselves whereby, they have resolved their marital conflicts and decided to peacefully separate by filing an application for divorce by mutual consent under Section 13(B) of the Hindu Marriage Act, 1985, before the concerned Court.

3.Towards all the claims of maintenance arrears of the maintenance for the wife and the children, the PW1/Defacto complainant K.Chitra agreed



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to accept the one time payment of Rs.50,000/- along with another sum of Rs.12,000/- totally amounting to Rs.62,000/-. A total amount of Rs.50,000 is now being paid in the Court and the further sum of Rs.12,000/- will be transferred online through G-pay within 10 days from today. A monthly maintenance of a sum of Rs.25,000/-, will be deducted from his salary as he is working as a Driver in the Tamil Nadu State Transport Corporation Limited, Coimbatore Division and the concerned pay disbursing officer will directly deduct the said sum of Rs.25,000/- and pay it to the credit of the Bank Account of PW1, namely K.Chitra, Indian Bank Savings Account No.6315189837, IFC Code No.IDBI 000 E009, Erukkencherry (112) Branch Erukkenchery, Chennai.

4.Compromise MEMO filed by the petitioner/ accused namely S. Illayaraja AND defacto complainant namely K. Chitra is extracted as under:

1.The defacto complainant namely K.Chitra, W/o.S.Ilayaraja, D/o.A.Kanniyappan, Hindu, Aged about 39 years, previously residing at No:21/131, Vivekanandha Nagar,



Kodungaiyur Chennai and Presently Residing at No.589-A, 15th street, Dhurgai Avenue, Selavayal, Madhavaram, Chennai-600 051.

2.The petitioner namely S.Ilayaraja, S/o Late Chockalingam, Hindu Aged about 39 year previously residing at No.25, Arur Main Road, Kadathur Post, Pappy Retti P Tk.Dharmapuri District -632 303. working as a Driver with staff No.P.R.No.09 DRIC 22089 at Maruthamalai Branch, Bharathiyar University Post. The Tamil Nadu State Transport Corporation Ltd Coimbatore Division. Coimbatore- District-641 043.

3.The defacto complainants and the petitioners marriage was solemnized on 17.06.2005 according to Hindu rites and customs in the presence of relatives and family and out of the said wedlock one female child namely DIVITHRA was born on 05.10.2006 and Male child namely MITHRAN was born on 24.06.2012.

4.The defacto complainant states that due to ill-treatment, harassment and humiliation and demanding dowry by the petitioner, the defacto complainant gave a police complaint and



the same was registered in Cr.No.12/2012 BY w-All women police station and charge also filed before the X.MM. Court Egmore in P.R.C.No.58/2014 and subsequently the case committed to Learned Sessions Judge, Mahalir Neethimandram, Chennai, in S.C.No.249 of 2014 and after conducting the trial the petitioner was found guilty and punished for the offence Under section 498-A IPC and sentenced to under go 3 years of R.I and to pay a fine of Rs. 10,000/- in default to under go further period of 6 months R.I. The petitioner is convicted U/S 323 of IPC and sentenced to under go 3 months S.I and to pay a fine of Rs.1,000/- in default to undergo further period of 2 weeks S.I. Sentence are ordered to run concurrently.

5.The defacto complainant states that against said conviction the petitioner prepared this present Crl.A.No.307 of 2016 and the defacto complainant also prepared in Crl.A.No.478 of 2017 and both the cases are pending before this Hon'ble Court.

6.The defacto complainant states that during the hearing of Crl.A.No.307 of 2016, the petitioner and the defacto complainant arrived at a settlement and entered into a compromise, and compromise memo is filed here with the



following terms and conditions:

a. The petitioner agreed to pay one time payment of Rs.50,000/- (Rupees Fifty thousand) + monthly maintenance of February 2023 amount of Rs.12,000/- (Rupees Twelve Thousand)= totally Rs.62,000/-(Rupees Sixty-two thousand) will be paid in cash in hand on 03.03.2023

b. The petitioner agreed to pay monthly maintenance of a sum of Rs.25,000/-(Rupees Twenty five thousand) from 01.02.2023, till his retirements date i.e. 31.07.2038 and the petitioner is willing to give a consent to the Branch Manger, Maruthamalai Branch, Bharathiyar University Post, The Tamil Nadu State Transport Corporation Ltd. Coimbatore Division. Coimbatore which is under the control of the Managing Director, Tamil Nadu State Transport Corporation Ltd. No. 37, Mettupalayam Road, Coimbatore Division, Coimbatore-641 043 to deduct the said amount of Rs. 25,000/- (Rupees Twenty-five thousand) from his salary and straightaway transferred and credit to the account of the defacto complaint namely K.CHITRA, INDIAN BANK SAVING Account No. 6315189837, IFC, CODE No. IDIB 000 E009, Erukkenchery (112) Branch



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Erukkenchery, Chennai

c. The petitioner is agreed to pay 50% of the retirement benefits to the defacto complainant's child (i.e Gratuity, CPS Pension and all other benefits which is available at the time retirement or voluntary Retirements schemes (VRS)) and the petitioner is willing to give a consent to the Branch Manger, Maruthamalai Branch, Bharathiyar University Post, The Tamil Nadu State Transport Corporation Ltd. Coimbatore Division. Coimbatore which is under the control of the Managing Director, Tamil Nadu State Transport Corporation Ltd. No.37, Mettupalayam Road, Coimbatore Division, Coimbatore-641 043 to deduct the said amount of Rs.50% from his retirement benefits or voluntary Retirements schemes (VRS) and straightaway transferred to the account of the defacto complaint namely K.CHITRA, INDIAN BANK SAVING Account No. 6315189837, IFC, CODE No.IDIB 000 E009, Erukkenchery (112) Branch Erukkenchery, Chennai.

d. The petitioner has undertaken that he will not avail the loan from his CPS amount which is lying in his account.

e. The petitioner is undertaking to take a step to intimate the petitioner through his the Branch Manger,



Maruthamalai Branch, Bharathiyar University Post, Coimbatore and the Division. Coimbatore which is under the control of the Managing Director, Tamil Nadu State Transport Corporation Ltd 37, Mettupalayam Road, Coimbatore Division, Coimbatore-641 043 about his stage of retirement or voluntary Retirements schemes to the defacto complainant above said address i.e., K.Chitra, W/o S.Ilayaraja, D/o A.Kanniyappan, Hindu Aged about 39 years, previously residing at No:21/131, Vivekanandha Nagar, Kodungaiyur Chennai and Presently Residing at No.589-A, 15th street, Dhurgai Avenue, Selavayal, Madhavaram, Chennai-600 051 and her contact Cell Number is 7708432304.

f. The defacto complaint to declare that her children namely DIVITHRA & MITHRAN are the legal heirs of defacto complainant & the petitioner.

g. The petitioner is agreed that the children namely DIVITHRA & MITHRAN are in the custody of the defacto complainant.

h. The petitioner and the defacto complaint to under take and co-operate to dissolve their marriage to file 13-B of H.M.Act before the competent Court.

i. The defacto complaint is under taking to withdraw the case in DVC.No.182 of 2017 and



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connected all the miscellaneous petition which are pending before the Mahila Court at Egmore, Chennai and also case in Crl. A.No. 478 of 2017 pending before the this Hon'ble court.

j. The defacto complaint declares and undertake that she will not make any claim in future in any manner and both parties will have no claim in future from each other.

Therefore it is prayed that this Hon'ble court may be pleased to accept this Joint Compromise Memo and proceed with this case and thus render Justice.

Dated at Chennai on this the 03 rd day of March 2023. ”

5.In that view of the matter, following the dictum laid down by the Hon'ble Supreme Court of India in B.S. Joshi's case and the later rulings in respect thereof, the present Criminal Appeal No.307 of 2016 is allowed on the following terms:



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(i)The conviction by the learned Court and sentence imposed on the appellant vide judgment dated 05.04.2016, for offences under Sections 498(A) and 323 of Indian Penal Code shall stand set aside, and the appellant is acquitted of the charges;

(ii)The fine amount, if any paid, is ordered to be refunded to the appellant;

(iii)The Joint Memo of compromise filed by the appellant and the defacto complainant / K.Chitra shall form part of this judgment;

(iv)As agreed between the parties, the Branch Manager or the concerned pay disbursal officer of the appellant/Mr.C.Ilaiyaraja (who is a senior driver bearing PR No.C24867), and the Managing Director of the Tamil Nadu State Transport Corporation Limited, Coimbatore Division, or the appropriate division as the case may be, shall keep deducting a sum of Rs.25,000/- per month from the month of April 2023 from his salary and credit the same into the Bank Savings Account of the Defacto complainant, namely K.Chitra, bearing Indian Bank Account No.6315189837;



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(v)Also in view of clause 6(c) of the joint memorandum of compromise, at the time of his retirement, 50% of all the total benefits payable shall also to be straightaway transferred to PW1, K.Chitra;

6.With the above directions, the Criminal Appeal is **disposed of**.

03.03.2023

Index : Yes
Speaking Order
Neutral Citation: No
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Note: *The Registry, High Court, Madras is directed to communicate the copy of this judgment to both the Branch Manager of Maruthamalai Branch,T.N.STC, Coimbatore and the Managing Director of T.N.STC,Coimbatore Division,No.37 Mettupalayam, Coimbatore.*



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To
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1. Sessions Judge,
(Mahalir Needhimandram) Chennai.
2. State of Tamil Nadu rep.by
The Inspector of Police,
W18-All Women police Station
M K B Nagar, Chennai.
3. The Public Prosecutor,
High Court of Madras.

Copy to:

- 1.The Branch Manager,
Maruthamalai Branch,
T.N.STC, Coimbatore.
- 2.The M.D. of T.N.STC,
Coimbatore Division,
No.37 Mettupalayam, Coimbatore.



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D.BHARATHA CHAKRAVARTHY, J

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