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CrI.R.C.No.1717 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.R.C.No.1717 of 2022

Jayalakshmi.

... Petitioner

/vs/

Suresh Babu,

... Respondent

Prayer: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., to set aside the order passed in C.M.P.No.151 of 2022 on the file of Judicial Magistrate No.IV, Vellore District, dated 31.05.2022.

For Petitioner

... Mr.R.Balakrishnan

For Respondent

... Mr.S.N.Arun Kumar

ORDER

This Criminal Revision Petition is filed challenging the impugned order passed by the Learned Judicial Magistrate No.IV, Vellore, in C.M.P.No.151 of 2022, dated 31.05.2022.



2. The Learned Counsel for the petitioner contended that the petitioner is the wife of respondent/accused Suresh Babu. They got married on 11.03.1996. Due to matrimonial dispute between each other, they are not living together. Thereafter, a criminal case has been filed by the petitioner and divorce case has been filed by the respondent.

3. Now, the petitioner filed an application before the Judicial Magistrate Court in C.M.P.No.151 of 2022, for return of sridhana articles, which were given by the petitioner at the time of marriage. The said petition was rejected by the trial Court on the ground that the case was registered based on the complaint given by the complainant in Crime No.7 of 2019 for the offences under Section 498(A) and 406 of I.P.C, in which, final report was filed and the same was taken on file in C.C.No.913 of 1999, on the file of the Judicial Magistrate No.I, Vellore and the Trial Court has convicted the accused for the offences under Section 498(A) & 406 of I.P.C. Against which, the accused/Suresh Babu has filed an appeal in Crl.A.No.74 of 2002 before the Additional District and Sessions Judge, (Fast Track Court), Vellore, which was ended in acquittal. Hence, the present Criminal Revision Petition is filed to set aside the impugned order and directed the trial Court to take the case on file and decide the matter on merits.



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4. The Learned Counsel appearing for the respondent submitted that the petitioner filed a criminal complaint against the respondent/accused Suresh Babu, and same was registered in Crime No.7 of 2019. After investigation, final report was filed and same was taken on file in C.C.No.913 of 1999. After considering the evidence, the trial Court convicted and sentenced the accused. Against which, the respondent has filed appeal in Crl.A.No.74 of 2002, he was acquitted and it was specifically recorded that the offence under Section 406 of I.P.C is not made out for want of sufficient evidence for entrustment of sridhana article by the petitioner at the time of marriage. Under these circumstances, this complaint before the trial Court is not maintainable. Therefore, the finding of the trial Court may be confirmed and the present petition may be dismissed.

5. On perusal of records, the fact reveals that the petitioner and the respondent/accused got married on 11.03.1996. Due to matrimonial dispute between each other, they are not living together. Hence, criminal case was filed against each other. It is reported that the petitioner/wife was divorced by the husband. The respondent police prosecuted the accused for the offences under Section 498-A and 406 of I.P.C. Though, the trial Court convicted the accused in C.C.No.913 of 1999, against which, he has



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preferred appeal in Crl.A.No.74 of 2002, the appellate Court found there is no sufficient evidence for the charges, hence acquitted for the offences under Section 498-A and 406 of I.P.C. Further, it is recorded in the judgment at paragraph No.11 that no evidence was produced by the prosecution for the entrustment of sridhana articles to the husband/accused by the petitioner at the time of marriage. Under these circumstances, she again filed an application in C.M.P.No.151 of 2022 seeking for return of sridhana articles given by the petitioner to the husband at the time of marriage. However, the trial Court rejected the complaint on the ground that there is no sufficient material to substantiate the allegation. Therefore, I find no infirmity in the order passed by the trial Court and there is no merit in the revision. Hence, the ***Criminal Revision Petition is dismissed.*** Consequently, connected Miscellaneous Petition is closed.

09.01.2023

Index : Yes/No.
Internet : Yes/No.
bsm

To,

1. The Judicial Magistrate No.IV, Vellore District.



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V.SIVAGNANAM, J.

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