



Crl.R.C(MD)No.626 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2023

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.626 of 2016

1) Nagasundaram

2) Mariammal

... Petitioners/Appellants/
Accused No.1 & 3

Vs.

Inspector of Police,
All Women Police Station,
Paramakudi,
Ramanathapuram District.

...Respondent/Respondent/
Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records of the learned Additional District/Sessions Judge, Ramanathapuram in C.A.No.1 of 2014 dated 15.12.2015 confirmed the conviction and sentence of imprisonment by the Learned Judicial Magistrate, Ramanathapuram in C.C.No.49 of 2008, dated 10.12.2013 and set aside the same by allowing this revision petition.

For Petitioners : Mr.R.J.Karthick

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl.Side)

ORDER

The revision has been filed to set aside the Judgment passed in C.A.No.1 of 2014, dated 15.12.2015, on the file of the learned



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Additional District/Sessions Judge, Ramanathapuram, arising from C.C.No.49 of 2008, dated 10.12.2013 on the file of the learned Judicial Magistrate, Ramanathapuram.

2.The case of the prosecution is that the victim fell in love with the first accused. Since both the parents opposed their marriage, both were eloped and thereafter, on the complaint, the victim was secured. Thereafter, there was compromise between both the family members and they consented for marriage. Accordingly, the marriage was solemnized between the the first accused and the victim on 27.03.2006 in the temple. During the marriage, the parents of the victim presented 5 sovereigns of gold jewel to the victim and ½ sovereign in favour of the first accused along with the house hold articles worth about Rs.20,000/-. They lived together in the matrimonial home. Subsequently, all the accused persons committed cruelty on the victim and also demanded dowry of 20 sovereigns of jewel and Rs.50,000/- cash amount. On 06.08.2008, due to non compliance of the said demand, the first accused on an illegal advice of the accused No.2 and 3 demanded 20 sovereigns of jewel and cash amount of Rs.50,000/- and assaulted the victim. Thereafter, all the accused persons have also attacked her. Due to which, the victim lodged a



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complaint. On the complaint, the respondent police registered a case in Crime No.18 of 2007 for the offences under Sections 498(A) of IPC and 4 of Dowry Prohibition Act r/w 34 IPC. After completion of investigation, the respondent filed final report before the learned Judicial Magistrate, Ramanathapuram, and the same has been taken cognizance in C.C.No.49 of 2008.

3.In order to prove the case, the prosecution had examined P.W.1 to P.W.10 and marked Exs.P.1 & P.2 & MO.1. On the side of the accused, no one was examined and no exhibit was marked.

4.On perusal of the oral and documentary evidence, the trial Court found all the accused persons guilty for the offences under Sections 498(A) of IPC and 4 of Dowry Prohibition Act r/w 34 IPC. For the offence under Section 498(A), they were sentenced to undergo 1 year Rigorous Imprisonment and fine of Rs.5,000/-, in default to undergo three months Simple Imprisonment. For the offence under Section 4 of Dowry Prohibition Act r/w 34 IPC, they were sentenced to undergo 1 year Rigorous Imprisonment and imposed fine of Rs.1,000/-, in default to undergo 3 months Simple



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Imprisonment. Aggrieved by the same, the petitioners preferred an appeal in C.A.No.1 of 2014 on the file of the learned Additional District/Sessions Judge, Ramanathapuram, and the Appellate Court convicted the petitioners herein (A1 & A3) alone and acquitted the remaining accused (A2, A4, A5 & A6). Hence, the present revision.

5.The learned counsel appearing for the petitioners would submit that admittedly, P.W.1 fell in love with the first accused and eloped somewhere. Only on the police complaint, the victim was secured and thereafter, both the families consented for their marriage. Therefore, it was a love marriage. Due to which, there was grudge over the petitioners on the side of the defacto complainant. In fact, even before, there was a civil dispute between them. Both the families are the neighbours each other. There was absolutely, no dowry demand from the accused. Only because of the love marriage, false complaint had been foisted as against the petitioners and the other accused. In fact, the petitioners herein are also standing in the very same footing along with the other accused persons. When the other accused person acquitted by the Appellate Court, the petitioners are also entitled for the very same benefit. There are some contradiction between the evidence of P.W.1 and



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P.W.3. The victim was examined as P.W.1. The mother of the victim was examined as P.W.3. According to P.W.1, she had sustained injury and admitted in the Private Hospital. Whereas, the mother of the victim, P.W.3 deposed that P.W.1 was admitted in the Government Hospital. However, no medical records were produced before the Trial Court to prove the above allegation. In fact, after strained relationship with both the family members, there was panchayat convened by P.W.4. In the panchayat, the victim and her family members undertook not to lodge any false complaint with the allegations of demand of dowry. After panchayat, they lived together for a period of 1 year and thereafter, present complaint has been foisted against the accused persons.

6.Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent would submit that the prosecution in order to bring the charges to home had examined P.W.1 to P.W.10 and marked Ex.P1 & P.2 and also produced MO.1. The victim was examined as P.W.1 and she categorically deposed that there was demand of dowry by the accused persons and also there was panchayat convened by P.W.4. P.W.4 categorically deposed that only because of dowry demand, there was strained relationship with



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both the family members. As such, there was panchayat. In the panchayat, they agreed for compromise. Subsequently, P.W.1, went to the house of the accused. Even then, there was dowry demand and cruelty committed by all the accused persons and as such, the victim lodged a complaint. The Panchayat President was examined as P.W.4 and also corroborated the evidence of P.W.1 & P.W.3. Therefore, the Court below rightly convicted the petitioners for the offence punishable under Sections 498(A) of IPC and 4 of Dowry Prohibition Act r/w 34 IPC and as such, there is absolutely no possibility for acquittal, since the prosecution categorically proved its case beyond any doubt.

7.Heard the learned counsel appearing on either side and perused the materials available on record.

8.Admittedly, P.W.1 and the first petitioner herein loved each other and eloped somewhere. On the complaint, P.W.1 was secured. Thereafter, both the families consented for their marriage. Accordingly, the marriage was solemnized and during the marriage, some jewels were presented to P.W.1 as well as the first petitioner. According to P.W.1, there was dowry demand by the family



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members and they also beaten her. Due to which, she sustained injuries and admitted in the private hospital. Though, no medical records was produced. Due to which, there is strained relationship and panchayat convened by P.W.4. The evidence of P.W.4 also reveals that there was dowry demand and cruelty committed by the accused. In panchayat, both the families agreed to joined together and also undertook not to demand any further dowry. At the same time, the victim has also undertook not to lodge any false complaint on the allegation of demand of dowry. Thereafter, they lived together for some period. Again, the accused persons demanded dowry. As such, P.W.1 constrained to lodge a complaint. Therefore, there is no doubt. The prosecution categorically proved its case beyond any doubt.

9.However, the learned counsel for the petitioners would submit that now P.W.1 also got married with another man and give birth two children. The first accused also got married and having 2 children. They are living happily. If at all any dowry demand and cruelty committed by the first accused, the present wife could not be lived with the first petitioner herein. Only because of their love marriage and the civil dispute between both the family members, which was existing before their marriage, they have roped in the case. He would further submit that the sentence may be reduced to



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the period which they had already undergone on payment of some compensation.

10.In view of the above, the conviction passed by the trial Court for the offences under Sections 498(A) of IPC and 4 of Dowry Prohibition Act r/w 34 IPC is hereby confirmed. In so far as the sentence for the offence under Sections 498(A) of IPC and 4 of Dowry Prohibition Act r/w 34 IPC, is concerned, it is modified as compensation. Hence, the petitioners are directed to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) to the credit of C.C.No.49 of 2008 on the file of the learned Judicial Magistrate, Ramanathapuram within a period of 1 month from the date of receipt of a copy of this order. Failing which, the sentence imposed by the Court below is hereby restored and the respondent is directed to secure the petitioners and send him for serving remaining period of sentence.

11.Accordingly, this Criminal Revision Case is partly allowed.

24.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

1 The Judicial Magistrate,
Ramanathapuram.

2 The Additional District/Sessions Judge
Ramanathapuram.



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G.K.ILANTHIRAIYAN, J.

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Order made in
Crl.R.C(MD)No.626 of 2016

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