



Crl.A.(MD)No.55 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 26.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.A(MD)No.55 of 2017

The Inspector of Police

All Women Police Station,

Trichy Fort,

Trichirappalli,

Crime No.50/2008

... Appellant/Complainant

vs.

1. Sivakumar @ Vijayarangan @ Babu,

2.Vijayalakshmi

3.Chellappa

... Respondents/Accused

PRAYER : This Criminal Appeal has been filed under Section 378 of Cr.P.C., to set aside the judgment of acquittal of the respondents / accused Nos.1 to 3, passed by the Judicial Magistrate No.5, Trichirappalli, in C.C.No.101 of 2009, dated 21.12.2010, convict the respondents / accused Nos.1 to 3 for the charges framed against them.

For Appellant : Mr.T.Senthil Kumar
Additional Public Prosecutor

For R1 & R2 : Mr.C.K.M.Appaji

R3 : Died



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JUDGMENT

This Criminal Appeal is filed to set aside the judgment of acquittal of the respondents / accused Nos.1 to 3, passed by the Judicial Magistrate No.5, Trichirappalli, in C.C.No.101 of 2009, dated 21.12.2010 and thereby, convict the respondents herein.

2. The appellant/complainant has filed a complaint in Crime No.50 of 2008, as against the respondents/accused for the offences under Sections 498-A and 406 I.P.C. and the same was taken on file as C.C.No. 101 of 2009.

3. The case of the prosecution is that on 27.02.2003, the defacto complainant got married with the first accused. During the marriage, they were presented 30 sovereigns of gold, silver articles and household articles. Thereafter, the accused persons demanded huge dowry and also harassed her. Due to the said cruelty, the defacto complainant was driven out from the matrimonial home. She also filed a petition to return the jewels and other articles, which were presented during their marriage. The first accused is working in CRPF at Bhopal,



Madhya Pradesh. On that complaint, the appellant-police registered an F.I.R in Crime No.50 of 2008 for the offences punishable under Sections 498-A and 406 I.P.C. After completion of investigation, they filed a final report and the same has been taken cognizance by the trial Court in C.C.No,101 of 2009.

4. On the side of the appellant, he had examined himself as P.W.1 to P.W.11 and exhibited 2 documents as Ex.P.1 and Ex.P.2. On the side of the accused, no one was examined and no document was marked.

5. On perusal of the oral and documentary evidence, the trial Court found the respondents/accused not guilty for the offence under Sections 498-A and 406 of I.P.C and acquitted them. Aggrieved by the same, the present appeal has been filed.

6. The learned Additional Public Prosecutor appearing for the appellant would submit that the trial Court without considering the fact that all the accused persons were in possession of all the Sridhana articles, including jewels. While pending investigation only, they returned all the jewels and other articles to the defacto complainant. Therefore, it would clearly prove the charges under Section 406 I.P.C.



Admittedly, the first accused lived with the defacto complainant only for 15 days and thereafter, due to huge demand of dowry and cruelty, she was driven out from the matrimonial home. The defacto complainant was examined herself as P.W1 and she categorically deposed about the harassment of the accused persons and also duly corroborated by P.W.2. Even then, the trial Court failed to appreciate the case of the prosecution and mechanically acquitted the accused.

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

8. A perusal of the records revealed that after the marriage, the first accused and the defacto complainant were lived together only for 15 days. The allegation itself is that the first accused failed to look after the defacto complainant. That apart, due to mental cruelty, the first accused was living separately. He filed a divorce petition as against the defacto complainant on the ground of cruelty. On receipt of summons, the defacto complainant lodged the complaint. She categorically admitted the above fact and is also corroborated by the Investigation Officer, who was examined as P.W.11. Further, on the complaint, the Social Welfare Officer conducted a detailed enquiry and it concluded that



there was no dowry demand and no harassment was made by the accused persons. Whatever the jewels and household articles presented during their marriage, were taken by the defacto complainant, while pending investigation. Therefore, the offence under Section 406 I.P.C is not made out, as against the accused.

9. Insofar as the Section 498-A I.P.C is concerned, they lived together only for 15 days and no complaint was lodged by the defacto complainant, till the receipt of summons from the divorce case filed by the first accused. The Social Welfare Officer also conducted enquiry and concluded that there was no dowry harassment and no cruelty was committed by the accused persons. Therefore, the offence under Section 498-A I.P.C is also not made out against the accused.

10. The learned Additional Public Prosecutor would submit that the third accused in this case, died on 28.07.2014 and he has also filed a Death Certificate to that effect.

11. Recording the submission made by the learned Additional Public Prosecutor, the charges against the third respondent herein – A3 are abated.



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12. Hence, the trial Court has rightly acquitted the accused and this Court finds no infirmity or illegality in the order passed by the Court below. This Criminal Appeal is liable to be dismissed and accordingly, it is dismissed.

26.06.2023

NCC : Yes/No
Index: Yes/No
Internet: Yes/No
Ls

To

1.The Judicial Magistrate No.5,
Trichirappalli,

2. The Inspector of Police
All Women Police Station,
Trichy Fort,
Trichirappalli,

3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN, J.

Ls

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