



Crl.RC.No.452 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:30.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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1.B.Satheesh
S/o. V.Nalan Nair

2.V. Balan Nair
S/o. Raman Nair

... Revision Petitioners

Versus

State By
The Inspector of Police,
W-1, All Women Police Station,
Thousand Lights,
Chennai-600006.

... Respondent

PRAYER: Criminal Revision has been filed under Section 397 r/w 401 of the Code of Criminal Procedure praying to set aside the judgment dated 17.02.2023 in Crl.Appeal No.100 of 2018 on the file of the learned VI Additional Sessions Judge, Chennai, dated 17.02.2023 and confirming the order passed by the Chief Metropolitan Magistrate, Egmore, Chennai in C.C.No. 6128 of 2008, dated 14.02.2018

For Petitioner : Mr.G.Ashok Kumar
For Respondent : Mr.A.Gopinath, GA

ORDER

This Criminal Revision has been filed against the judgment dated 17.02.2023 passed in C.A. No.100 of 2018 on the file of the VI Additional Sessions Judge, Chennai, thereby confirming the order of conviction and



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sentence imposed by the trial Court in C.C. No. 6128 of 2008, dated

14.02.2018, on the file of the Chief Metropolitan Magistrate, Egmore, Chennai,

for the offences punishable under Sections 498-A and 406 of IPC and Section 4 of the Dowry Prohibition Act.

2. The case of the prosecution is that the defacto complainant got married to the 1st petitioner herein on 14.02.2004, and during their marriage, 60 sovereigns of gold jewellery and a sum of one lakh rupees were given as presentation. Even after, the petitioners demanded more dowry from the defacto complainant. The 1st petitioner is a homosexual, and he did not have the potency to have a physical relationship with the defacto complainant. The 2nd petitioner also used to watch the defacto complainant while she was taking bath. Both the petitioners pledged the jewellery of the defacto complainant and received money. On the complaint lodged by the defacto complainant, the respondent police registered an FIR in Crime No. 8 of 2007 for the offences punishable under Sections 498-A and 406 of IPC and Sections 4 and 6 of the Dowry Prohibition Act. After completion of investigation and filing of the final report, the same was taken cognizance of by the trial Court.

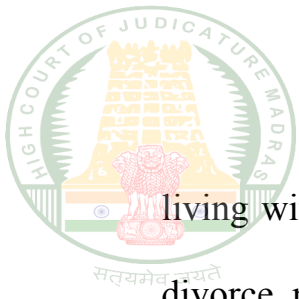
3. On the side of the prosecution, 11 witnesses were examined as PW1 to PW11 and 11 documents were marked at Exhibits P1 to P11. On the side of the petitioners, no witnesses were examined and no documents were marked. On



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perusal of the oral and documentary evidence, the trial Court found both the petitioners guilty of the offences punishable under Sections 498-A and 406 of IPC and Sections 4 and 6 of the Dowry Prohibition Act. They were sentenced to undergo one year rigorous imprisonment each under Section 498-A IPC and to pay a fine of Rs.1,000/- each, in default to undergo one month simple imprisonment each. The petitioners were also sentenced to undergo one year rigorous imprisonment each under Section 406 IPC and to undergo one year rigorous imprisonment each under Section 4 of the Dowry Prohibition Act and to pay a fine of Rs.1,000/- each, in default to undergo one month simple imprisonment each. Further, the petitioners were also convicted and sentenced to undergo one year rigorous imprisonment each, with the sentences directed to run concurrently. Challenging the said order of conviction and sentence, the petitioners filed an appeal before the Appellate Court, and the same was dismissed, confirming the conviction and sentence imposed by the trial Court. Aggrieved by the same, the present revision petition has been filed.

4. Learned counsel for the petitioners submitted that the petitioners are arrayed as A1 and A2. A2 is the father of the 1st petitioner and he is no more. Therefore, the proceedings against him stand abated in accordance with law. The learned counsel further submitted that even after the filing of the final report and the cognizance taken by the trial Court, the defacto complainant was



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living with the 1st petitioner in her matrimonial home. In fact, she also filed a divorce petition on the ground of cruelty, and the same was dismissed for default after many years. Pending the divorce petition, she continued to stay with the 1st petitioner.

5. The specific case of the 1st petitioner is that the jewellery which was mortgaged by both petitioners that belonged to the 1st petitioner's mother. There is absolutely no evidence to show that the defacto complainant presented the jewellery during marriage. Therefore, the prosecution has miserably failed to prove any charges against the 1st petitioner. The mother of the defacto complainant was examined as PW2. She is an interested witness and supported the case of PW1. In fact, she also admitted that even after lodging of the complaint, the defacto complainant lived with the 1st petitioner until January 2010. Therefore, the entire allegations are false and, in order to take vengeance against the petitioner, a false complaint has been foisted. Now the 1st petitioner is also facing trial in a complaint under the Domestic Violence Act and also facing a divorce petition filed on the ground of cruelty by the defacto complainant.

6. The learned Government Advocate submitted that in order to prove the charges, the prosecution examined witnesses PW1 to PW11. The defacto complainant was examined as PW1, and she categorically deposed that during



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the marriage, 60 sovereigns of gold jewellery and a sum of one lakh rupees were presented on demand. Even after the marriage, the petitioners demanded huge dowry from the defacto complainant. Both the accused had taken the entire jewellery and cash which were presented during marriage and pledged the same. The pawn brokers were examined as PW8 and PW9, and the receipts for the pledged jewels were marked as Exhibits P6 to P9. Therefore, it is contended by the learned Government Advocate that the prosecution has proved the charges and that the trial Court rightly convicted the petitioners, which was confirmed by the Appellate Court, and thus the same does not warrant any interference by this Court.

7. The scope of this revision petition is to examine whether the findings of guilt recorded by the Courts below suffer from any perversity, illegality, or mis-appreciation of evidence warranting interference under the revisional jurisdiction of this Court.

8. Heard both sides and perused the documents available on record.

9. The 2nd petitioner is no more, and as such, all the charges are abated against him.

10. The 1st petitioner married the defacto complainant on 14.05.2004, and they have no children. According to the case of the prosecution, both the



petitioners received jewellery and cash during the marriage and pledged the jewellery with PW8 and PW9.

11. A perusal of Exhibits P6 to P9 reveals that the jewellery was pledged by A1 and A2/petitioners herein. However, the specific case of the petitioners was that the jewels pledged with PW8 and PW9 belonged to their family. The investigation also failed to recover or trace the jewellery in question or to conclusively establish that it belonged to the defacto complainant. The evidence of PW1 and PW2, who are closely related, remained uncorroborated by any independent witness regarding the alleged entrustment and misappropriation of the dowry articles. Except for this allegation, no other specific accusation was made against the 1st petitioner, and the bulk of the allegations were directed against the 2nd petitioner. That apart, the 1st petitioner is undergoing mental agony due to the registration of the criminal case since 2007. Further, the defacto complainant has also filed a complaint under the Domestic Violence Act and a divorce petition on the ground of desertion, which is pending. All the allegations made against the 1st petitioner are bald and vague. Furthermore, there is no specific allegation mentioning the date or time on which the 1st petitioner committed cruelty against the defacto complainant. The mother of PW1 was examined as PW2, she categorically admitted that even after lodging the complaint against the 1st petitioner and after filing the final report, the



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defacto complainant continued to live with the 1st petitioner. The defacto complainant also categorically admitted that even after the filing of the final report in the present case, she lived with the 1st petitioner till 2010.

12. In criminal jurisprudence, the burden is always on the prosecution to prove its case beyond reasonable doubt. When two views are possible and the one favourable to the accused is equally plausible, the benefit of doubt must necessarily go to the accused. In the present case, the prosecution has failed to discharge its burden convincingly, and the trial Court and the Appellate Court failed to properly appreciate the infirmities in the prosecution case. Therefore, the conviction and sentence awarded by the trial Court in respect of all the charges against the 1st petitioner and confirmed by the Appellate Court cannot be sustained and are liable to be set aside.

13. Accordingly, the order in C.A. No. 100 of 2018 dated 17.02.2023 passed by the VI Additional Sessions Judge, Chennai, confirming the order passed by the Chief Metropolitan Magistrate, Egmore, Chennai, in C.C. No. 6128 of 2008 dated 14.02.2018, is set aside. The Criminal Revision Petition is allowed.

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Index:Yes/No

Neutral citation:Yes/No

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Speaking/Non speaking order
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WEB COPY To

- 1.The VI Additional Session Judge, Chennai,
- 2.The Chief Metropolitan Magistrate, Egmore, Chennai



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G.K.ILANTHIRAIYAN. J,

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