



WEB COPY



Crl.A.No.1038 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.07.2025

CORAM

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

Crl.A.No.1038 of 2023

H.Jayalakshmi Harikrishnan

...Appellant

1.The State of Tamil Nadu,
Represented by the Inspector of Police,
W-8, All Women Police Station,
Thirumangalam,
Chennai
2.Harikrishnan
3.Selva
4.Balathandapani
5.Revathi

... Respondents

Prayer: Criminal Appeal filed under Section 372 of Cr.P.C., praying to allow this appeal and set aside the judgment of acquittal passed in CA.No.355 of 2022 on the file of XXI Additional Sessions Judge, Chennai dated 19.07.2023 reversing the judgment of conviction passed in CC.no.2899 of 2016 on the file of the XIII Metropolitan Magistrate, Egmore, Chennai dated 14.11.2022.

For Appellant : Mr.R.K.Kasivishwanathan
for M/s.Thomas T Jacob

For Respondents



WEB COPY



2

For R1 : Mr.S.Raja Kumar,
Additional Public Prosecutor

For R2 to 5 : Mr.Elanjchezhen
for Mr.J.Janarthanan

JUDGMENT

This criminal appeal has been preferred against the order of acquittal passed in CA.No.355 of 2022 on the file of XXI Additional Sessions Judge, Chennai dated 19.07.2023, thereby setting aside the order of conviction and sentence imposed by the trial court in CC.no.2899 of 2016 on the file of the XIII Metropolitan Magistrate, Egmore, Chennai dated 14.11.2022 for the offences punishable under Section 498A of IPC.

2. The case of the prosecution is that the appellant and the second respondent got married and gave birth to two children. They were all living together with the second respondent's parents. While being so, respondents 2 to 5 used to scold the appellant with filthy languages. On the instigation of the fifth respondent herein, the second respondent insisted the appellant to register a flat in her name. Further, the appellant was told that if any police complaint is lodged, she would be killed.

2/10



Crl.A.No.1038 of 2023

WEB COPY

Moreover, respondents 2 and 3 locked her inside the house and tortured her. On her complaint, the first respondent registered FIR in crime No.978 of 2014 for the offence punishable under Section 498A of IPC. After completion of investigation, final report was filed and the same was taken cognizance by the trial court.

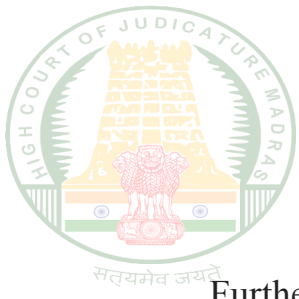
3. In order to bring the charges to home, the prosecution had examined PW1 to PW7 and marked Ex.P1 to Ex.P6. On the side of respondents 2 to 5, they had examined DW1 and DW2 and marked Ex.D1 to Ex.D3. They also produced a material object as MO.1. On perusal of oral and documentary evidences, the trial court convicted respondents 2 to 5 for the offence punishable under Section 498A of IPC and sentenced them to undergo two years of rigorous imprisonment with fine of Rs.5,000/-, which is to be paid by each of respondents 2 to 5. Aggrieved by the same, they preferred appeal and the appellate court set aside the conviction imposed by the trial court and respondents 2 to 5 were acquitted of the charges under Section 498A of IPC. Aggrieved over the reversal judgment of the appellate court, the complainant has filed the present criminal appeal.



WEB COPY

4. The learned counsel for the appellant would submit that though there are specific allegations against respondents 2 to 5, the appellate court failed to consider the same and mechanically acquitted them. In fact, the trial court rightly convicted them for the offence punishable under Section 498A of IPC. He further submitted that after shifting residence from the matrimonial house to the rental house, the first accused did not even provide any food, amenities and other facilities to the appellant and he did not bother even for a single day to maintain the appellant and the children. He used to beat her and also torture her to the core. He used to come to home daily at late night, that too in a drunken mood. The trial court, after considering the evidence of PW1, convicted respondents 2 to 5, however the appellate court acquitted them on flimsy grounds.

5. Per contra, the learned counsel for respondents 2 to 5 filed counter and submitted that the appellate court rightly held that the charges under Section 498A of IPC were not proved by the prosecution.



Crl.A.No.1038 of 2023

WEB COPY

Further, there was a huge delay in lodgment of complaint. Respondents also produced a compact disc of CCTV footages. The specific allegation levelled against them is that they insisted to transfer a flat in the name of the appellant, which stands in the names of her parents. However, the prosecution failed to examine the parents of the appellant in support of her evidence. Therefore, all the allegations are bald and vague and as such, the appellate court rightly acquitted respondents 2 to 5.

6. Heard, the learned counsel appearing on either side and perused, all the materials placed before this Court.

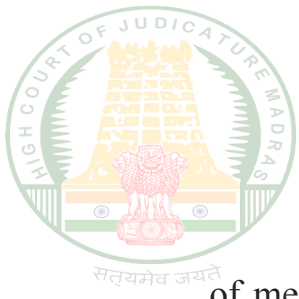
7. The respondents 2 to 5 are husband and parents-in-law of the appellant. They were charged for the offence under Sections 4 of Tamilnadu Prohibition of Harassment of Women Act and 498A of IPC. After completion of investigation, the first respondent filed final report for the charge under Section 498A of IPC. The appellant was examined as DW1. The prosecution examined PW1 to PW7. To disprove the case of the prosecution, respondents 2 to 5 had examined DW1 and DW2 and marked Ex.D1 to Ex.D3. A CD file was produced as material object i.e.



WEB COPY

MO.1. The trial court convicted respondents 2 to 5 for the offence punishable under Section 498A of IPC on the strength of the mental cruelty alone. It is settled proposition of law pertaining to offence under Section 498A of IPC while arriving conviction. The trial court relied upon the evidence of the appellant alone to arrive at the decision of guilt against respondents 2 to 5. The trial court completely ignored the exculpatory materials and other supervening circumstances existing in favour of respondents 2 to 5 herein.

8. The phrase 'mental cruelty' is not defined under IPC. There is no straightjacket formula to define mental cruelty, but the Hon'ble Supreme Court of India defined mental cruelty as the conduct which inflicts upon the other party such mental pain and suffering as would make it not possible for the party to live with each other. Further, the element of mental cruelty should be evaluated by way of established set of facts in an individualistic perception and the metrics cannot be generalised. On consideration of complete matrimonial life of the parties, acute mental pain, agony and suffering as would not make possible for the parties to live with each other could come within the broad parameters

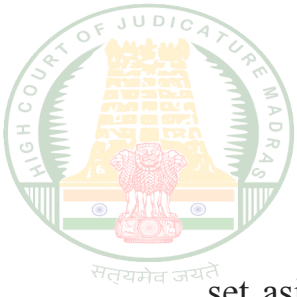


Crl.A.No.1038 of 2023

WEB COPY

of mental cruelty. On comprehensive appraisal of the entire matrimonial life of the parties, it becomes abundantly clear that situation is such that the wronged party cannot reasonably be asked to put up with such conduct and continue to live with other party. Thus it is clear that if a case falls under the ambit of 'mental cruelty', it is where one party would be disinterested to continue in the matrimonial relationship with other hateful spouse.

9. But in the case on hand, the very prayer in the complaint itself would show that the appellant wanted to live with the second respondent. Further, the appellant failed to mention the dates and events. Therefore, the alleged occurrence took place on 06.08.2014 was not proved by the prosecution. Further, there was a delay in lodgment of complaint. On receipt of the said complaint, FIR was registered on 07.09.2014. Therefore, there was a delay in lodgment of complaint from the date of the alleged incidence took place on 06.08.2014. That apart, the allegation of torture and assault of the appellant was not proved. There were matrimonial disputes between the spouses. As such, the delay in lodgment of complaint is material. Therefore, the appellate court rightly



WEB COPY

set aside the conviction and sentence imposed on respondents 2 to 5 by the trial court and this Court finds no infirmity or illegality in the reversal judgment rendered by the appellate court.

10. In view of the above discussion, this criminal appeal stands dismissed.

18.07.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
lok



Crl.A.No.1038 of 2023

WEB COPY

To

- 1.XXI Additional Sessions Judge, Chennai
- 2.XIII Metropolitan Magistrate, Egmore, Chennai
- 3.Inspector of Police,
W-8, All Women Police Station,
Thirumangalam,
Chennai
- 4.The Public Prosecutor,
High Court of Madras



WEB COPY



10

G.K.ILANTHIRAIYAN, J.

lok

Crl.A.No.1038 of 2023

18.07.2025

10/10