



Crl. R.C.No.917 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.06.2025

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal Revision No. 917 of 2019

Yusuf

.. Petitioner

Versus

The State rep by
The Inspector of Police,
All Women Police Station,
Peravellore, Chennai 600 082.

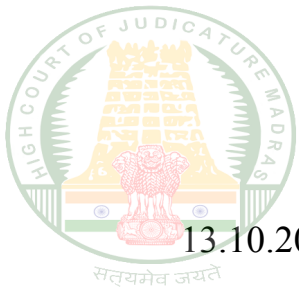
.. Respondent

Criminal Revision is filed under Section 397 and 401 of Cr.P.C to acquit the Petitioner by setting aside the judgment dated 14.08.2019 passed in C.A. No. 207 of 2015 on the file of the learned II Additional Sessions Judge, Chennai by partly confirming the Judgment dated 13.10.2015 passed in C.C. No. 5113 of 2011 by the Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner	..	Mr. J. Ashish
For Respondent	..	Mr. V. Meganathan
		Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case had been filed to set aside the judgment dated 14.08.2019 passed in C.A.No.207 of 2015 by the learned II Additional Sessions Judge, Chennai partly confirming the Judgment dated



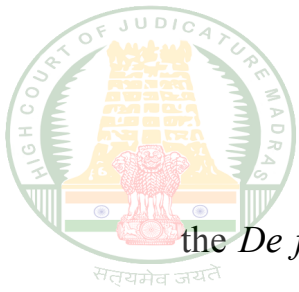
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13.10.2015 passed in C.C. No. 5113 of 2011 on the file of the learned Chief

Metropolitan Magistrate, Egmore, Chennai.

2. The brief facts, which are necessary for the disposal of this Criminal Revision Case, are as follows:

2.1 As per the Complaint under Ex.P-1, the Revision Petitioner/first Accused had married Kowsar Fathima, *De facto Complainant*/PW1 on 07.10.2001. It was an arranged marriage. At the time of marriage, the parents of the *De facto Complainant* have presented 18 sovereigns of gold jewellery and Rs.15,000/- in cash. The Revision Petitioner was having his own Mechanic Shed at Pudupet, Chennai. After the marriage, the *De facto Complainant* was living with her husband and mother-in-law. After two months of marriage, the mother-in-law started to ill-treat the *De facto Complainant* on the ground that she had married off her daughter giving 50 sovereigns of gold jewellery and Rs.50,000/- as dowry, whereas the dowry brought by the *De facto Complainant* was less and her son, the Revision Petitioner herein had got offers from affluent families who were ready to provide higher amount of dowry. The father of the *De facto Complainant* was working in Postal Department. After his retirement, the retirement benefits were demanded by the mother-in-law. In the course of their matrimonial life,



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the *De facto Complainant* delivered a male child. Meanwhile, the husband of the *De facto Complainant* had arranged to put up construction in the property belonging to him for which he demanded money from the *De facto Complainant*. The *De facto Complainant* approached her parents and their parents had given Rs.1,00,000/- in two instalments of Rs.50,000/- each and thereafter the *De facto Complainant* often went to her parent's house and complained that her husband and mother-in-law were demanding more and more dowry. Therefore, upon hearing her woes, her elder maternal Aunt had given Rs.1,00,000/- which she had handed over to her husband. Meanwhile, her elder brother had left for Muscat on employment. Knowing about the job prospects at Muscat and the fact that the *De facto Complainant* is the only daughter to her parents, the mother-in-law and the husband of the *De facto Complainant* demanded her to seek monetary help from her brother. Her brother had also offered financial help and he had purchased gold ornament for his sister/*De facto Complainant* on his return from Muscat. Since it was not comfortable to wear, she had exchanged it at GRT Jewellery Mart. The husband and mother-in-law, however, sold the jewels given by the parents and elder brother of the *De facto Complainant* towards expenses for the construction of house.

2.2. After the construction of the house, the *De facto Complainant*



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was living along with her husband and mother-in-law. *De facto Complainant*

came to know that in the year 2006, the husband of the *De facto Complainant* contracted a second marriage by marrying her younger maternal Aunt's daughter Tapasum as his second wife and in the course of such matrimonial life, a child was born to her. On coming to know about the same, the *De facto Complainant* enquired her husband about the same. Then he started to ill-treat her by declaring that she is not attractive and he did not like her. He also demanded her to walk out of the matrimonial relationship and he will bring in Thapasum to the newly constructed house. Subsequently he along with his mother, ill-treated her and the husband of the *De facto Complainant* also attacked her brutally, even threatened her and forced her to get out of the matrimonial house. She and her son sensing danger to their life went to her mother's house and sought refuge. Since she was scared of her life, she preferred a complaint to the Peravellore Police. Since they had not taken any action, she sought the help of Tamil Nadu Muslim Munetra Kazhagam to initiate action against the Accused and mother-in-law. Even after that attempt, since there was no relief for her complaint, she approached the South Indian Human Rights Council and also South Indian Consumer Protection Council who had issued notice on her behalf. The Mother-in-law even after such notice did not attend the enquiry. The *De facto Complainant* therefore approached



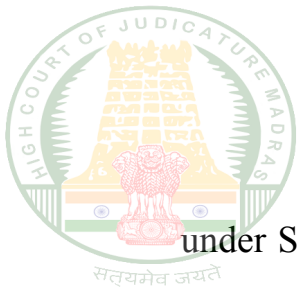
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this Court by filing Criminal Original Petition seeking direction to the Commissioner of Police. Based on the direction of this Court, the Commissioner of Police directed the All Women Police Station, Chennai – 600 082 to register a case. Accordingly, the First Information Report in Crime No.5 of 2011 was registered against the Accused 1 to 3 in this case.

2.3. The Investigation Officer, All Women Police Station /P.W-9 took up investigation, examined the witnesses, completed the investigation and laid the final report before the Court of the learned Chief Metropolitan Magistrate. The learned Chief Metropolitan Magistrate taking cognizance of the offences under 498(A), 406, 506(i) of I.P.C and under Sections 4 and 6 of the Dowry Prohibition Act, had taken the final report laid by the Inspector of Police, All Women Police Station and numbered the case as C.C.No.5113 of 2011. Summons were served to the Accused. In C.C. No. 5113 of 2011 the husband, the mother-in-law and the second wife of the *De facto Complainant's* husband were arrayed as Accused 1 to 3.

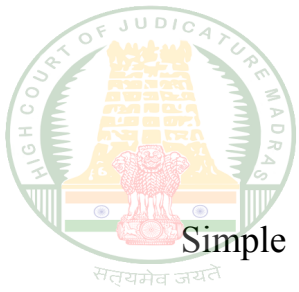
2.4. On appearance of the Accused 1 to 3, the learned Chief Metropolitan Magistrate, Chennai at Egmore had furnished copies of the prosecution documents to the Accused under Section 207 of Cr.P.C. After hearing the prosecution and the defence, the learned Chief Metropolitan Magistrate, Chennai framed charges against Accused 1 to 3 for the offences



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under Sections 498(A), 406 and 506(i) of I.P.C and under Sections 4 and 6 of the Dowry Prohibition Act. Since the Accused denied the charges, trial was ordered. During trial, the prosecution examined 9 witnesses as P.W-1 to P.W-9 and marked 6 documents as Ex.P-1 to Ex.P6. The Accused had examined the Social Welfare Officer Thirumathi Pandiammal as D.W-1 and marked four documents as Ex.D-1 to Ex.D-4.

2.5. After completion of the prosecution evidence, the Accused 1, 2 and 3 were examined under Section 313 Cr.P.C. and they denied the incriminating evidence against them. After hearing the arguments of the prosecution and the learned Counsel for the Accused and on appreciation of evidence, the learned Chief Metropolitan Magistrate by judgment dated 13.10.2015 in C.C.No.5113 of 2011 had convicted the Accused-1, Husband of the *De facto Complainant*, for the offence under Sections 498 (A) and 406 of IPC and Section 4 and 6 of Dowry Prohibition Act. The Accused-2, mother-in-law of the *De facto Complainant* and Accused-3, the second wife of the Accused-1 were acquitted from the charges under 498(a), 406, 506(i) of IPC and Section 4 and 6 of Dowry Prohibition Act. As far as the sentence, the Accused-1 was sentenced to undergo Simple imprisonment for three years with fine of Rs.5,000/-, in default, to undergo simple imprisonment for three months for the offence under section 498-A of IPC; to undergo three years



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Simple imprisonment and fine of Rs.5,000/-, in default, to undergo three months of simple imprisonment for the offence under section 406 of IPC; to undergo six months Simple imprisonment and to pay fine of Rs.5000/- each, in default, to undergo one month simple imprisonment for the offence under Sections 4 and 6 of the Dowry Prohibition Act.

2.6. Aggrieved by the judgment of conviction and sentence of imprisonment, the Accused-1 had preferred an appeal in Criminal Appeal No. 207 of 2015 before the learned II Additional Sessions Court, Chennai. After hearing the arguments of the learned Counsel for the Appellant and the learned Additional Public Prosecutor, the learned II Additional Sessions Judge, Chennai by judgement in Criminal Appeal No.207 of 2015 dated 14.08.2019 allowed the Appeal in part as follows:-

“(i) The Accused No.1/Revision Petitioner is convicted and sentenced to undergo 2 years simple imprisonment for the offence under Section 498-A of IPC and to pay a fine of Rs.3,000/-, in default of which, the Accused shall undergo one month simple imprisonment.

(ii) The Accused No.1/Revision Petitioner is convicted and sentenced to undergo six months simple imprisonment for the offence under Sections 4 and 6 of Dowry Prohibition Act and to pay a fine of



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Rs.3,000/-, in default of which, the Accused shall undergo 15 days

simple imprisonment.

(iii) The Accused No.1/Revision Petitioner is not found guilty of the offence under Section 406 of IPC and is acquitted.”

2.7. Aggrieved by the judgement dated 14.08.2019 of the learned II Additional Sessions Judge, Chennai in Criminal Appeal No. 207 of 2015, the Revision Petitioner/Accused No.1 had preferred this Criminal Revision

5. The learned Counsel for the Revision Petitioner/Accused No.1 submitted that both the trial Court and the Appellate Court failed to note that the entire version of the *De facto Complainant* is an improved version which are not at all mentioned in the complaint under Ex.P-1. The *De facto Complainant* also admitted the improvements made in the cross examination and thus the evidence of P.W-1 is motivated. Both the Courts failed to appreciate the evidence of the defense witness, District Social Welfare Officer who had supported the version and the report under Ex.D-4 which confirms that the *De facto Complainant* admitted that she had accepted the return of her belongings from the husband and in-law. P.W-2 and P.W-3 are the parents of the *De facto Complainant*/P.W-1 and they are interested witnesses. Both the Courts failed to appreciate the fact that the *De facto Complainant*/P.W-1 and



her parents P.W-2 and P.W-3 are interested witnesses and the rest of the witnesses P.W-4, P.W-5 and P.W-6 have no personal knowledge of the allegations made by P.W-1. Both the Courts failed to see that none of the independent witnesses nearby their residence where the *De facto Complainant* and Accused-1 and Accused-2 stayed had been examined. Both the Courts failed to appreciate the evidence in their proper prospective and the judgement of both the Courts are perverse and is to be set aside in Revision.

6. In support of his contentions, the learned Counsel for the Revision Petitioner/Accused No.1 invited the attention of this Court to the evidence of P.W-1, particularly, in her cross examination. She admitted the suggestion that she had not mentioned those facts which she had stated in her examination in chief or in her statement under Section 161 Cr.P.C in the complaint under Ex.P-1. Therefore, she herself admitted in her cross examination that there was improvement in her deposition from what had been stated to the Investigation Officer during the investigation. Similarly, the evidence of the mother and father of P.W-1 as P.W-2 and P.W-3 admit that they did not have knowledge about any of the facts which P.W-1 had stated in her deposition.



7. The learned Counsel for the Revision Petitioner/Accused No.1

also submits that the F.I.R was registered belatedly and there is embellishment in the F.I.R. The complaint was motivated and the occurrence had not at all taken place. The only grievance of the *De facto Complainant* was that the husband of the *De facto Complainant* married the younger maternal Aunts' daughter Tapasum/third Accused as his second wife and wanted the *De facto Complainant* to walk out of the matrimonial house. Subsequently, he himself had given Divorce by expressing *talaq* and serving the *talaq* through post on the *De facto Complainant*. Further, what had been narrated in the evidence had not been proved regarding demand of dowry to attract the provisions of Section 4 and 6 of the Dowry Prohibition Act. The learned Counsel also invited the attention of this Court to Sections 4 and 6 of the Dowry Prohibition Act which are extracted as follows:

“4. Penalty for demanding dowry: If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

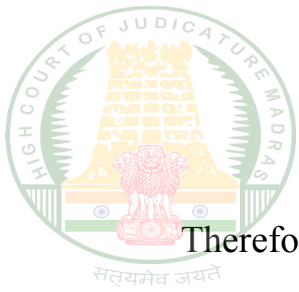
6. *Dowry to be for the benefit of the wife or her heirs — (1) Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman —*



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- (a) if the dowry was received before marriage, within [three months] after the date of marriage; or
(b) if the dowry was received at the time of or after the marriage, within 3 [three months] after the date of its receipt; or
(c) if the dowry was received when the woman was a minor, within 3 [three months] after she has attained the age of eighteen years; and pending such transfer, shall hold it in trust for the benefit of the woman.”

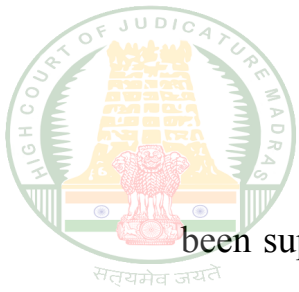
8. By placing reliance on the above provision of law, the learned Counsel for the Revision Petitioner/Accused No.1 submitted that the prosecution had not established the ingredients of offence under Section 498(A) of IPC, Sections 4 and 6 of the Dowry Prohibition Act and therefore, the conviction of the Revision Petitioner for offences under 498(A) IPC and Sections 4 and 6 of Dowry Prohibition Act is perverse. It is the specific contention of the learned Counsel for the Revision Petitioner/Accused No.1 that the *De facto Complainant*, as P.W-1, the mother as P.W-2, the father as P.W-3 were unable to give details with specific dates regarding the transfer of money to the husband by the *De facto Complainant*. Also, they claim that her elder brother, on coming down from Muscat, brought her 10 sovereigns of gold jewellery, since it was not comfortable to her, she had exchanged it at GRT Jewellery Mart. It was also alleged that she had purchased 20 grams of gold jewellery which was utilised by the husband for the construction of the house. All these things are without any specified dates and proper documents.



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Therefore, the evidence of P.W-1 lacks credibility. She had stated that on retirement of her father Rs.3,50,000/-was received by her father and the mother-in-law prodded her to get half of the amount as her share as she is the only daughter to her parents to help her husband to contribute for the construction of the house. Further, on seeing the plight of the *De facto Complainant*, her father gave her Rs.1,00,000/- from his retirement benefit. This was contradicted by her own father as P.W-3 in his cross examination admitting that he had spent the entire amount for his son's expenses to go for job abroad at Muscat. Therefore, the evidence of P.W-1 is not of sterling quality. The learned Chief Metropolitan Magistrate and the learned II Additional Sessions Judge, Chennai failed to consider the evidence of P.W-1, P.W-2 and P.W-3 independently. Based on such evidence, the Appellate Judge ought not to have confirmed the conviction of the Accused-1.

9. Further, it is the submission of the learned Counsel for the Revision Petitioner/Accused No.1 that the *De facto Complainant* herself, due to her health condition, arranged the marriage of her cousin, the younger maternal aunt's daughter with her husband and subsequently, she had given a complaint. There is evidence in cross examination that she was taken care of by Thapasum/Third Accused. Earlier she had given a complaint but that had



been suppressed. Therefore, the registration of the F.I.R under Ex.P-3 and the complaint under Ex.P-1 lacks credibility and the conviction based on Ex.P-1 and the evidence of P.W-1 is perverse and is to be set aside.

10. The learned Counsel for the Revision Petitioner/Accused No.1 relied on the reported decisions in the cases of

10.1. In the case of *Thulia Kali vs. State of Tamil Nadu* reported in *MANU/SC/0276/1972* the Hon'ble Supreme Court had held as follows:

“Criminal – evidence - Sections 302 and 379 of Indian Penal Code, 1860 - appellant convicted under Sections 302 and 379 for murder and theft on deceased - sentence to death awarded to appellant - conviction of appellant solely based upon testimony of two witnesses - features of prosecution story create considerable doubt regarding veracity of evidence of two witnesses and not safe to maintain conviction on basis of their evidence - appellant acquitted and appeal allowed.”

10.2. In the case of *State of Haryana vs. Gurdial Singh and Others* reported in *MANU/SC/0215/1974* the Hon'ble Supreme Court had observed as follows:

“10. The present is a case wherein the prosecution witnesses have come out with two inconsistent versions of the occurrence. One version of the occurrence is contained in the evidence of the witnesses in court, while the other version is contained in their statements made before the police. According to the version given in court, it was Pargat Singh who shot dead the deceased, while according to the other version it was Gurdial Singh of Ramana who was responsible for the crime. Again, according to the version given in court, the occurrence was witnessed by Avtar Kaur. As against that, the version contained in the police statement was that Avtar Kaur had not witnessed the occurrence. In view of these contradictory versions, the High Court, in our opinion, rightly came to the conclusion that the conviction of the accused could not be sustained. We see no ground to interfere with the



judgment of the High Court. The appeals fail and are dismissed.”

10.3. In the case of ***State of Rajasthan vs. Rajendra Singh*** reported in

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MANU/SC/0446/1998 the Hon'ble Supreme Court had observed as follows:

“7. It was submitted by the learned counsel for the State that as many as six witnesses were found injured and that would establish their presence at the place of the incident. In our opinion this contention is of no help to the appellant because their evidence has not been discarded on the ground that they were not present. Their evidence was discarded because they were found not telling the truth before the court. It was also submitted by the learned counsel that the evidence of PWs 1 to 4 stood corroborated by two independent witnesses, namely Ramjilal and Jeevan Singh. P.W.8 Ramjilal had stated that he had gone to the spot on hearing sound of a gun shot and tried to snatch away the gun from the respondent. But he was contradicted by his police Statement wherein he had not stated anything regarding snatching of the gun. this omission on such a vital point has to be regarded as a contradiction and it creates a serious doubt about the truthfulness of his version. P.W. 9 Jeevan Singh had stated that he had also rushed to the spot on hearing the sound of a gun shot. He further stated that he had made an attempt to save Harveer and in doing so he had received an injury. He had not so stated before the police. This also shows that this witness had made a material improvement before the Court in order to make his evidence acceptable.”

10.4. In the unreported case of the Hon'ble Supreme Court in ***Amar Nath Jha vs. Nand Kishore Singh & etc*** in Criminal Appeal Nos.94-97 of 2013, dated 03.08.2018 it has been observed as follows:

“10. The third circumstance which we need to concentrate concerns non-reporting of essential facts which were known to the informant in the FIR. The High Court while appreciating the entire materials on record has affirmatively concluded that PW-1, 2, 3, 4, 8, 10 & 12 belong to the same family of the deceased and reside in the same house. It may be of some significance to note that PW-9 (the informant) of this case is the nephew of deceased who lives in an adjacent house to that of the deceased. In the FIR, PW-9 has failed to mention the name of PW-1, is a significant person as per the prosecution as he had allegedly identified the accused-Nand Kishore Singh and Maheshwar Singh, who were the dacoits responsible for the aforesaid crime. It has come out from the cross-examination of PW-9 that he was aware of presence of PW-1 during the incident but he failed to mention



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his name in the FIR. Such non-mentioning of presence of PW-1, who was a material witness in this case, creates further suspicion on the hypothesis portrayed by the prosecution. The High Court on appreciation of detailed evidence has for the right reasons concluded that the informant (PW-9) was aware of the names of dacoits who had killed the deceased but failed to name them in the FIR. In this context we may note that the incident is alleged to have taken place in the intervening night of 21 st-22nd April, 1999, whereas the FIR came to be registered at 3.15 a.m., after a lapse of 3 hours. Despite sufficient time for the informant to gather necessary information, which he did, the names of two accused respondents have conspicuously been missing, which also formed an additional factor for the High Court to acquit accused respondents. Although we accept that FIR need not be an encyclopedia of the crime, but absence of certain essential facts, which were conspicuously missing in the present FIR, point towards suspicion that the crime itself may be staged.”

10.5. In the case of *Dilawar Singh vs. State of Delhi* reported in **MANU/SC/3678/2007** the Hon'ble Supreme Court had held as follows:

“Indian Penal Code, 1860 - Sections 452, 392 and 397-- House trespass, robbery and robbery with attempt to cause death or grievous hurt--Conviction and sentence--Whether sustainable?--Held, "no"--Incident allegedly took place on 8.8.1984--But complaint lodged on 31.8.1984 --No satisfactory explanation for such delay--No injury inflicted -- Hence, offence under Section 397 clearly not established--Further, ingredients necessary for offence punishable under Sections 452 and 392--Not established in view of highly inconsistent version of complainant -- Conviction and sentence set aside.”

10.6. In the case of *Ramkumar Pandey vs. State of Madhya Pradesh* reported in **MANU/SC/0192/1975** the Hon'ble Supreme Court had observed as follows:

“9. No doubt, an F.I.R. is a previous statement which can, strictly speaking, be only used to corroborate or contradict the maker of it. But, in this case, it had been made by the father of the murdered boy to whom all the important facts of the occurrence, so far as they were, known up to 9.15 p.m. on 23-3-1970, were bound to have been communicated. If his daughters had seen the appellant inflicting a blow' on Harbinder Singh, the father would certainly have mentioned it in the F.I.R. We think that or missions of such important facts, affecting the probabilities of the case, are relevant



under [Section 11](#) of the Evidence Act in judging the veracity of the prosecution case.”

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11. Opposing the submissions of the learned Caounsel for the Revision Petitioner/Accused No.1, Mr.V.Meganathan, the learned Government Advocate (Crl. Side) submitted that the trial Court had properly appreciated the evidence and on proper appreciation of evidence convicted the Petitioner/Accused-1. On appeal by the Accused-1 as Appellant, the learned II Additional Sessions Judge on proper re-appreciation of evidence arrived at the same conclusion that the offences alleged against the Accused under Section 498(A) of IPC and Sections 4 and 6 of the Dowry Prohibition Act had been proved. However, the learned II Additional Sessions Judge acquitted the Accused from the charge under Section 406 I.P.C alone and partly allowed the appeal. The learned II Additional Sessions Judge on re-appreciation of evidence independently acquitted the Revision Petitioner/Accused No.1 from the charges under Section 406 of IPC and confirmed the conviction under 498(A) of IPC and Sections 4 and 6 of the Dowry Prohibition Act. This Court sitting as Revisional Court cannot re-appreciate the evidence. This Court, as Revisional Court, can assess as to whether the conclusion reached by the Appellate Court is based on material evidence or on the basis of irrelevant evidence. If it is assessed, it would clearly show that the Appellate Court, on



the basis of material evidence, partly allowed the Criminal Appeal filed by the Revision Petitioner/Accused No.1. Therefore, the Revisional Court does not have power to re-assess evidence as that of the Appellate Court.

12. The contention of the learned Counsel for the Revision Petitioner/Accused No.1 is that the evidence of P.W-1 does not inspire confidence. It is contended that the witnesses examined before the Trial Court are parents of the *De facto Complainant* and the prosecution witnesses P.W-4, P.W-5 and P.W-6 are hearsay witnesses will not hold good as far as matrimonial disputes are concerned. In matrimonial dispute, every time a complaint is preferred, instead of registering an F.I.R, the Investigation Officer attempts to bring about a compromise between the couple. There is counselling offered at the Police Station itself. Invariably instead of registering F.I.R, it is treated as Community Service Register and attempts are made by counselling the parties to amicably settle among themselves by offering professional help by psychological counselling. Even if the FIR registered, the matter is referred to Social Welfare Authorities under the provisions of Dowry Prohibition Act before proceeding with the investigation in the F.I.R, so that the Social Welfare Officer conducts enquiry and attempts to bring about settlement. Here P.W-1 admitted in her cross examination that there was an



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attempt for amicable settlement but could not fructify. In her cross examination Ex.D-4 was marked. She had clearly stated that the words were dictated by the Officer based on which she had written it.

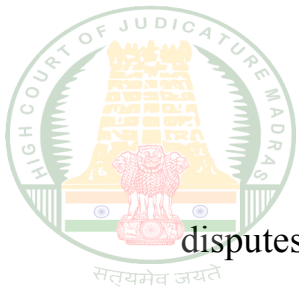
13. The learned Government Advocate (Crl.side) invited attention of this Court to Ex.D-4 wherein it is not stated that she had accepted the belongings. She had only stated that the Husband undertook to give back her belongings but not given back her belongings including the jewellery. Also, it has been stated that Rs.1,500/- will be paid to the child for his maintenance. But the husband had not acted accordingly. The terms of compromise as were dictated by the Social Welfare Officer was given a go by, by the conduct of the husband. Therefore, the *De facto Complainant* was forced to seek the help of the High Court in getting a direction to the Commissioner of Police and thereafter, F.I.R under Ex.P-3 was registered resulting in investigation and laying of the final report. Therefore, the claim of the learned Government Advocate (Criminal side) is that the judgement of the learned II Additional District and Sessions Judge, Chennai is proper and does not warrant interference by this Court.

14. It is submitted by the learned Government Advocate (Criminal side) that in cases of matrimonial dispute, only the near and dear ones of the



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victims will come forward to depose evidence. The relatives or residents nearby will not offer themselves as witnesses. Here, P.W-8 is a neighbour, she, in her evidence clearly stated that the *De facto Complainant*/P.W-1 used to weep very often and complained that her husband and mother-in-law ill-treated her on the ground of dowry. P.W-8 also deposed that she used to console her and her attempts to mediate failed as the mother-in-law of the P.W-1 told her not to interfere in their family affairs. The husband of P.W-8 also informed her that she should not interfere in their matrimonial affairs. Therefore, unable to bear the hue and cry as well as the sufferings of the *De facto Complainant*/P.W-1 they had even shifted their residence from the opposite of P.W-1's house to avoid any misunderstanding with the family of the in-laws of P.W-1. That much of evidence is available in this case. Therefore, it is the submission of the learned Government Advocate (Criminal Side) that what had been deposed by P.W-1 is natural. After having obtained money and jewellery from P.W-1, the Petitioner/Accused No.1 did not return the same which had attracted the offence under Section 498(A) and section 4 and 6 of the Dowry Prohibition Act. Therefore, the conviction upheld at the level of the Appellate Court is maintainable and this revision lacks merit. The reported decisions cited on behalf of the Revision Petitioner will not help the case of the Revision Petitioner/Accused No.1 as they are not related to family



disputes attracting the provisions of Dowry Prohibition Act. Thus, the Revision lacks merit and it has to be dismissed.

Point for consideration

Whether the judgement of conviction recorded by the learned Chief Metropolitan Magistrate in C.C. No. 5113 of 2011, dated 13.10.2015 and the judgement of the learned II Additional Sessions Judge, Chennai recorded in Criminal Appeal No.207 of 2015 dated 14.08.2019 are to be set aside as perverse?

15. Heard the learned Counsel for the Revision Petitioner and the learned Government Advocate (Criminal Side) for the Respondent.

16. Perused the evidence before the trial Court of P.W-1 to P.W-9 and the documents marked under Ex.P-1 to Ex.P-6, the evidence of the defence witness D.W-1 and the documents marked under Ex.D-1 to Ex.D-4. The judgment of the learned Chief Metropolitan Magistrate in C.C.No.5113 of 2011, dated 13.10.2015 and the judgment of the learned II Additional Sessions Judge in Criminal Appeal No.207 of 2015 dated 14.08.2019 are also perused.

17. The learned Chief Metropolitan Magistrate, had on proper



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appreciation of evidence of the *De facto Complainant*/P.W-1 and her parents concluded that there was demand of dowry and on that score, the *De facto Complainant* was harassed by her husband. The deposition of P.W-1 regarding the mother-in-law/second Accused had been rejected by the Trial Judge on the ground that it is not supported by any material evidence, particularly, the complaint does not mention those facts. The learned Chief Metropolitan Magistrate also rejected the evidence of the P.W-1 regarding the involvement of Accused-2/Mother of the Accused and Accused-3/second wife of Accused-1. Therefore, the learned Chief Metropolitan Magistrate had acquitted Accused-2 and Accused-3 from all the charges.

18. In the Criminal Appeal, the learned II Additional Sessions Judge, Chennai had on re-appreciation of evidence independently arrived at a conclusion thereby, acquitted the Revision Petitioner/first Accused from the charge under Section 406 of IPC and thereby, the Criminal Appeal was allowed in part and the conviction recorded by the learned Chief Metropolitan Magistrate was confirmed regarding the offence under Section 498 (A) of IPC and Sections 4 and 6 of the Dowry Prohibition Act.

19. As rightly pointed out by the learned Government Advocate



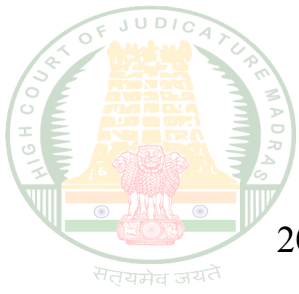
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(Criminal Side) in offences attracting matrimonial disputes, the Court or the prosecution cannot expect neighbours of the *De facto Complainant* and Accused to volunteer as witnesses, due to very many reasons, particularly in matters of this nature, they are scared of repercussions. Furthermore, it is not known whether the relationship between the family of the *De facto Complainant* and their neighbour was cordial or not. Even otherwise, there may be very many reasons for the neighbours not coming forward to depose in support of the *De facto Complainant* and against the in-laws of the *De facto Complainant*. They may be averse to avoid any misunderstanding between them. Therefore, the claim that only the relatives were examined by the Investigation Officer and they are interested witnesses cannot be accepted in cases of this nature. Naturally, a married woman shares her pain and sufferings only with her near and dear ones at home and not to the neighbours as it will result in a havoc in her matrimonial life. Therefore, naturally her siblings or parents are her healing partners with whom she can openly share everything without any exaggeration. Therefore, the contention that the evidence of the parents and siblings have to be rejected as they are interested witnesses will not hold good. At the same time, the Court on appreciating evidence shall approach it with caution. The trial Court as well as the Appellate Court while appreciating evidence had to appreciate such evidence independently. There



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may be contradictions, there may be improvements subsequent to the statement made to the Investigation Officer. There may be improvements while deposing evidence before the trial Court. Invariably in all criminal trials, there will be improvements and there will be minor discrepancies. It is for the Trial Judges or the Appellate Judges to ignore the minor contradictions, to ignore the improvements made by the witnesses during trial before trial Court. The Court has to distinguish between the chaff from the grain. Accordingly in this case, the Trial Court had appreciated evidence. In this case, there are incriminating evidence through P.W-1, accusing the mother-in-law and second wife of the Accused-1. But the trial Judge had not accepted those versions of P.W-1 on the ground that it was not stated either in complaint under Ex.P-1 or in the statement under Section 161 Cr.P.C before the Investigation Officer. Therefore, the learned trial Judge had assessed the evidence properly and rejected the deposition against Accused-2 and 3. Similarly the evidences of the mother and father of the P.W-1 were also assessed and it is supported by the deposition of P.W-1 alone. Therefore, on considering the same, the trial court recorded a Judgment of the conviction against the Accused-1 alone for offences under 498(A) and 406 I.P.C and Section 4 and 6 of the Dowry Prohibition Act and Accused-1 was acquitted from charge under 506(i)IPC.



20. On appeal, the learned II Additional Sessions Judge, Chennai had

on independent reassessment of evidence before the learned trial Judge had acquitted the Revision Petitioner/Accused No.1 from the charge under 406 IPC. Therefore, as rightly pointed out by the learned Government Advocate (Crl. Side), this Court as Revision Court cannot re-appreciate evidence as the discretion vested in the revision Court is not that of the Appellate Court. The Revision Court shall consider revision only if there is flaw in the Judgement or error apparent in the Judgement of either the trial Court or the first Appellate Court in applying the law to the facts of the case or applying the evidence recorded. In this revision, there is nothing to show that there was error in applying the law to the facts of the case or error in applying a wrong provision of law. Therefore, the Revision lacks merit and the interference of this Court with the Judgment of the Appellate Court is not warranted.

21. On consideration of the reported decisions cited by the learned Counsel for the Revision Petitioner/first Accused, they are not relevant to the facts of this case. Further, the claim of the Petitioner/first Accused that the earlier complaint was suppressed and the present complaint is also embellished based on which F.I.R was registered will not hold good as far as dispute in matrimonial cases. As rightly pointed by the learned Government Advocate



WEB C (Crl. Side) in cases of matrimonial dispute, the complaints from the affected woman are not registered as F.I.R as per the guidelines issued by the Honourable Supreme Court in ***Lalitha Kumari v. State of Uttar Pradesh***. The Honourable Supreme Court issued guidelines in registering F.I.Rs in cases of matrimonial dispute. The Investigation Officer has the discretion to consider counselling before registering F.I.R and make attempts for amicable settlement of the matrimonial disputes. Therefore, the claim of the Revision Petitioner that the earlier complaint was suppressed cannot be accepted. The evidence of D.W-1/Pandiammal, the Social Welfare Officer, who was entrusted with conducting counselling sessions to attempt amicable settlement between the husband and wife and recordings under Ex.D-1 to Ex.D-4 were found out by the trial Court, as P.W-1 in cross examination stated that the words were written by her as dictated by the officer concerned. Therefore, it will not help the Accused to wriggle out of the case based on the evidence under Ex.D-1 to Ex.D-4. The *De facto Complainant* also recorded that she undertook to visit the residence of the husband and take back her belongings. The husband had conceded to it. Also the husband undertook to return her jewellery within three months and to pay the child Rs.1500/- per month. Since he had not acted as per the compromise, she was forced to get a direction to the higher Police Officials

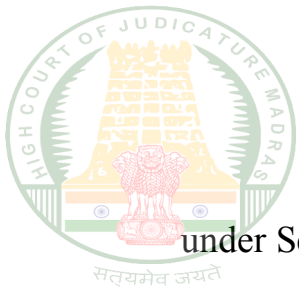


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to proceed with investigation based on which alone Ex.P-3 had come into existence. Therefore, the claim that the judgement of the trial Court as well as the Appellate Court was perverse cannot be accepted by this Court in exercise of the power of Revision.

22. The conviction recorded by the learned chief Metropolitan Magistrate for the offence under 498(A) of IPC and Sections 4 and 6 of Dowry Prohibition Act and confirmed by the learned II Additional Sessions Judge are legally sustainable. However, considering the plight of the Revision Petitioner as a Mechanic and he had to support the second wife and children, the sentence alone is reduced to six months for the offence under 498(A) of IPC.

23. In the light of the above discussion, the point for consideration is answered partly in favour of the Revision Petitioner and the Judgement of conviction recorded by the learned Chief Metropolitan Magistrate in C.C.No5113 of 2011, dated 13.10.2015 is a well reasoned Judgement. The Judgement of the learned II Additional Sessions Judge in criminal Appeal No.207 of 2015, dated 14.08.2019 is also well reasoned Judgement which does not warrant any interference. The conviction is confirmed and the sentence



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under Section 498(A) of IPC alone is reduced and modified.

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In the result, **this Criminal Revision is partly allowed.** The Judgment dated 14.08.2019 passed in Criminal Appeal No. 207 of 2015 on the file of the learned II Additional Sessions Judge, Chennai is confirmed. However, the sentence imposed by the Appellate Court for the offence under Section 498-A of IPC alone is modified by holding that the Accused No.1/Revision Petitioner is sentenced to undergo Six Months simple imprisonment and to pay a fine of Rs.3,000/-, in default, he shall undergo one month simple imprisonment. For the offence under Section 4 and 6 of The Dowry Prohibition Act, the sentence of six months imposed by the Appellate Court is confirmed and it remains unaltered. The sentences are ordered to run concurrently. The Trial Court shall issue warrant to the Revision Petitioner/first Accused to undergo the period of sentence as has been imposed by this Court in this Order.

02.06.2025

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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SATHI KUMAR SUKUMARA KURUP.J.

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To

1. The II Additional Sessions Judge,
Chennai.
2. The Chief Metropolitan Magistrate,
Egmore, Chennai.
3. The Inspector of Police,
All Women Police Station,
Peravellore, Chennai - 600 082.
4. The Superintendent,
Central Puzhal Prison,
Puzhal.
5. The Section Officer,
Criminal Section,
High Court of Madras.

Order made in
Crl.R.C.No.917 of 2019

02.06.2025