

Crl.RC No.504 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 17.04.2025

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal Revision Case No.504 of 2019

1. Ramasamy
2. Selvi

.. Petitioners

Versus

State represented by
The Inspector of Police,
All Women Police Station,
Rasipuram.

.. Respondent

Criminal Revision case is filed under 397 and 401 of Code of Criminal Procedure to set aside the Judgment of conviction and sentence passed in Criminal Appeal No. 29 of 2017, dated 26.11.2018 by the learned Principal Sessions Judge, Namakkal confirming the judgment of conviction and sentence passed in C.C.No.50 of 2011, dated 30.05.2017 on the file of learned Judicial Magistrate, Rasipuram.

For Petitioners	:	Mr. R. Sankara Subbu
For Respondent	:	Mr. V. Meganathan Government Advocate (Crl.side)

ORDER

The Criminal Revision Case had been filed by the Appellants praying to set aside the Judgment dated 26.11.2018 passed in Criminal Appeal No. 29 of 2017 on the file of the learned Principal Sessions Judge, Namakkal confirming the judgment dated 30.05.2017 passed in C.C.No.50 of 2011 on the file of the

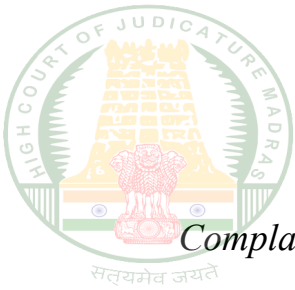


Judicial Magistrate, Rasipuram.

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

2.1. The *De facto Complainant* is the wife of the first Accused and daughter-in-law of the Accused Nos. 2 and 3. According to the *De facto Complainant*, her marriage with the first Accused was solemnised on 14.07.2008 at Orambu Perumal Temple and it was an arranged marriage. After the marriage, the *De facto Complainant* commenced the matrimonial life in the house of the first Accused along with his parents, Accused-2 and Accused-3. The Accused-2 is the step mother of Accused-1 and the second wife of the Accused-3. It was stated that the second Accused, for reasons unknown, did not like the *De facto Complainant* and therefore, she instigated the first Accused to drive the *De facto Complainant* out of the matrimonial home. In fact, when the *De facto Complainant* become pregnant, on 03.12.2008, both the Accused 1 and 2 administered some pills into the mouth of the *De facto Complainant* by force to abort the pregnancy, however, she vomitted and avoided the same. During the end of January 2009, for reasons best known to the Accused 1 and 2 they had driven the *De facto Complainant* out of the matrimonial home and when she refused, the Accused No.1 had wielded a machete and threatened to do away with her life. Subsequently, the *De facto*



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Complainant delivered a child and when she came back to the house of the Accused 1 to 3 along with the child, she was not permitted inside. On the other hand, the Accused Nos. 1 and 2 attacked her by pulling her hair, snatched her child from her hands and threw the child to the ground. The Accused-3/father of the Accused-1 also joined them in driving the *De facto Complainant* out of their house. The Accused-2 to 3 also claimed that they will not let the *De facto Complainant* to live with the Accused-1. Therefore, the *De facto Complainant* gave a complaint to the Inspector of Police, All Women Police Station, Rasipuram. Based on such complaint, the Inspector of Police, All Women Police Station, Rasipuram registered a case in Crime No.5 of 2010 for the offence under Sections 498-A and 506 (ii) of Indian Penal Code read with Section 4 of Dowry Prohibition Act. Ex.P-3 is the First Information Report registered against the Accused.

2.2. On receipt of the copy of Ex.P-3, The Inspector of Police, P.W-10 proceeded with investigation, examined the parents and neighbours of the *De facto Complainant*. After completion of the Investigation, she filed final report before the Court of the learned Judicial Magistrate, Rasipuram against the Accused 1 to 3 for the offence under Sections 498-A and 506 (ii) of IPC. In the meantime, on registration of the case, Accused-1 to Accused-3 obtained Anticipatory bail and therefore, they were not arrested.

2.3. The learned Judicial Magistrate, Rasipuram taken cognizance of



the offences against the Accused for the offences punishable under Sections 498 and 506(ii) of I.P.C and taken the final report as C.C. No. 50 of 2011.

Thereafter, summons were served on the Accused-1 to Accused-3. On appearance of the Accused, copies were furnished to them under Section 207 Cr.P.C. After hearing the learned Assistant Public Prosecutor attached to the Court of the learned Judicial Magistrate and the learned Counsel for the Accused, the learned Judicial Magistrate, Rasipuram framed charges for the offence punishable under Section 498(A), 506(2) of I.P.C. The Accused-1 to Accused-3 denied the charges. Therefore, trial was ordered. During trial, on behalf of the Prosecution 11 documents were marked and 5 witnesses were examined. The *De facto Complainant*, wife of Accused-1 was examined as P.W-1 and the other witnesses were examined as P.W-2 to P.W-9. The Investigation Officers were examined as P.W-10 and P.W-11. The Complaint given by P.W-1 was marked as Ex.P-1. The Receipt issued by the temple registering the marriage dated 14.07.2008 was marked as Ex.P-2. The F.I.R was marked as Ex.P-3. After completion of the Prosecution evidence, the incriminating evidence available through the witnesses and documents were put to Accused-1 to Accused-3 under 313 Cr.P.C. The Accused-1 to Accused-3 denied the incriminating evidence available against them. No defence witness was examined by the Accused-1 to Accused-3.

2.4. After hearing, the learned Assistant Public Prosecutor and the

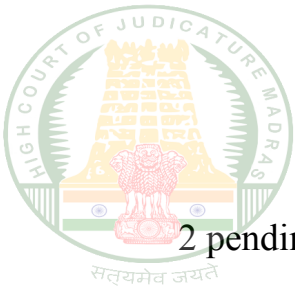


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learned Counsel for the Accused, the learned Judicial Magistrate, by judgment dated 30.05.2017 in C.C.No.50 of 2011 acquitted the Accused-1 to Accused-3 from the charges under Section 506(2) of IPC and convicted Accused-1 and Accused-2 alone, for the charge under 498(A) of I.P.C and sentenced them to undergo simple imprisonment for one year and fine of Rs.1,000/- each, in default, to undergo one month simple imprisonment. The Accused-3 was acquitted from all the charges.

2.5. Aggrieved by the judgment of conviction recorded by the learned Judicial Magistrate, Rasipuram, Accused-1 and Accused-2 have preferred an Appeal in Criminal Appeal No.29 of 2017 before the learned Principal Sessions Judge, Namakkal seeking to set aside the judgment of conviction recorded by the learned Judicial Magistrate, Rasipuram. The learned Principal Sessions Judge, Namakkal, after hearing both sides, dismissed the Criminal Appeal No.29 of 2017, on 26.11.2018. Aggrieved by the judgment of conviction recorded by the learned Judicial Magistrate, Rasipuram and confirmed in Appeal by the learned Principal Sessions Judge, Namakkal, the Accused-1 and Accused-2 have filed this Criminal Revision Case.

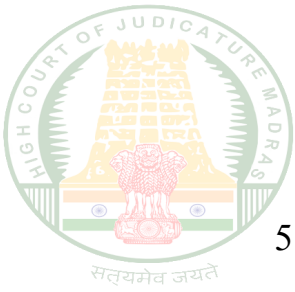
3. When this Criminal Revision Case was taken up for hearing, this Court, by order dated 14.11.2019 passed in Crl. M.P. No. 6925 of 2019 suspended the substantial sentence of imprisonment against the Accused 1 and



2 pending disposal of the present Criminal Revision Case.

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4. Subsequently, when the Criminal Revision Case was taken up for hearing, it was represented that settlement talks are going on. It was also stated that the Revision Petitioners are ready to offer a sum of Rs.5 lakhs to the *De facto Complainant*. Therefore, by order dated 27.07.2023, this Court directed the *De facto Complainant* to be present before this Court and the Revision Petitioners were directed to bring a demand draft for Rs.5 lakhs. However, when the Criminal Revision Case was taken up for hearing on 27.08.2023, the father of the *De facto Complainant* appeared before this Court and submitted that the *De facto Complainant* is not inclined to accept the offer made by the Revision Petitioners. Therefore, this Court directed the Inspector of Police, All Women Police Station, Rasipuram to contact the *De facto Complainant* and to file a status report. Accordingly, a status report dated 08.09.2023 was filed in which it was stated that on 10.08.2023, the *De facto Complainant* appeared before the Inspector of Police, during which the Accused have tendered a cheque for Rs.5 lakhs, but she refused to receive the cheque. It was also stated that the *De facto Complainant* is not ready for a compromise with the Revision Petitioners. Since the *De facto Complainant* is not amenable to a compromise, this Court is inclined to proceed with this Criminal Revision on merits.



5. The learned Counsel for the Revision Petitioners submitted that

the Prosecution marked the report of the Social Welfare Officer under Ex.P-5 in which it was clearly stated that there was no demand for dowry or consequent harassment made to the *De facto Complainant*. The report of the Social Welfare Officer under Ex.P-5 is clear that there is no involvement of dowry harassment made to the *De facto Complainant*. Under those circumstances, the conviction of the Revision Petitioners for the offence under Section 498(A) I.P.C is to be set aside. Further, it is the contention of the learned Counsel for the Revision Petitioners that scribe of Ex.P-1 was not examined. Ex.P-1 is the typed complaint whereas, *De facto Complainant* in her cross examination had stated that she had given written complaint. The learned Counsel for the Revision Petitioners also invited the attention of this Court to Section 498A of IPC which reads as under:

“Section 498-A of the Indian Penal Code – Husband or relative of husband of a woman subjecting her to cruelty. – Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

6. The learned Counsel for the Revision Petitioners submitted that Section 498-A of IPC deals only with cruelty and it does not describe dowry harassment. As per the evidence available before the learned Judicial Magistrate, Rasipuram, P.W-1, claims that when Accused-1 to Accused-3



came to know that she was pregnant, they forced some medicine into her

mouth by uttering '*let the child in the womb shall be aborted*'. However, P.W-1

vomitted it and subsequently left the matrimonial home. In the course of the

cross examination, a suggestion was made that P.W-1 was living with another

person at Tiruvannamalai with whom she had illicit relationship. Since it was

brought to the knowledge of Accused-1, he had approached the parents of P.W-

1 to stop the marriage. After engagement, there is no practice of stopping

marriage and therefore, elders of both families agreed to perform the marriage.

In any event, there was no harassment caused to the *De facto Complainant*.

Except the *De facto Complainant* and his parents, there is no other evidence

made available to show that the *De facto Complainant* was subjected to cruel

treatment. A trivial matrimonial quarrel between the *De facto Complainant*

and her husband/Accused-1 had been given a criminal colour. The complaint

given by P.W-1 had not been proved through any oral or documentary

evidence. The Courts below, without any legally acceptable evidence, had

erroneously convicted and sentenced the Revision Petitioners on surmises. The

learned Counsel for the Revision Petitioners therefore prayed for allowing this

Criminal Revision Case.

7. The learned Government Advocate (Crl.side) vehemently objected to the line of arguments put forth by the learned Counsel for the Revision



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Petitioner and submitted that this Court cannot re-appreciate the evidence as

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Appellate Judge. This Court can only consider this Revision Petition if the decision of the Courts below are based on irrelevant material consideration or the conclusion reached is contrary to acceptable principles of law. Unless there is any error apparent on the face of the record, interference of this Court is not warranted. In this case, under Ex.P-5, even though it was stated that there was no harassment for dowry, the deposition of P.W-1 itself is sufficient to convict the Appellants. The deposition of P.W-1 is also supported by the evidence of her parents. As per the deposition of P.W-1, she was subjected to physical and mental torture from day one of the marriage. Further, when the *De facto Complainant* was pregnant, she was subjected to untold mental agony and hardship, which was clearly deposed by her as P.W-1. The learned Judicial Magistrate as trial Judge had the advantage of appreciating the demeanour of the witness expressing and narrating the sufferings she had undergone. Such an advantage is not available either to the Appellate Court or to this Court. Therefore also, this Court need not interfere with the findings rendered on fact by the trial Court.

8. The learned Government Advocate (Crl. Side) also invited the attention of this Court to the defence of the Accused that P.W-1 was having illicit relationship with another person and was living with him in



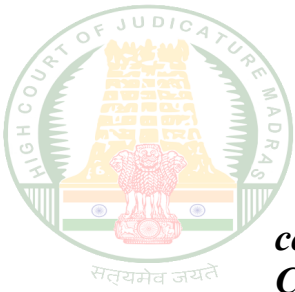
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Tiruvannamalai. This fact was discussed in the course of the judgment by the learned Judicial Magistrate and observed that if what had been claimed by the Accused-1 was true, he should have filed a petition to subject the wife and child for DNA test. As he had not done so, a presumption has to be drawn against the Accused. Thus, the defence of the Accused had been merely raised without any proof and it was rightly rejected by the Courts below.

9. The learned Government Advocate (Crl. Side) also invited the attention of this Court to the evidence of the Prosecution witnesses and the discussion of evidence by the learned Judicial Magistrate. In the Appeal, on re-appreciation of evidence through the records, the learned Principal Sessions Judge had rejected the claim of the Appellants and confirmed the judgment of the trial Court. When the trial Court and the Appellate Court had on appreciation of evidence, arrived at a conclusion, this Court, sitting on revision cannot re-appreciate the evidence and to substitute a different finding than the one reached by the Courts below. In any event, this Criminal Revision has no merits and therefore, it has to be dismissed.

Point for consideration:

Whether the revision is to be allowed and the judgment of conviction recorded by the learned Judicial Magistrate Rasipuram in C.C.No.50 of 2011 dated 30.05.2017 and



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confirmed in Appeal by the learned Principal Sessions Judge in Criminal Appeal No.29 of 2017 dated 26.11.2018 are to set aside

as perverse?

10. Heard the learned Counsel Mr.R.Sankarasubbu for the Revision Petitioners and the learned Government Advocate (Crl side) Mr.V.Meganathan for the Respondent/State. Perused the judgment of the courts below which are impugned in this Revision.

11. On perusal of records and as pointed by the learned Government Advocate (Crl. Side) when the trial Court as well as the Appellate Court had on proper application of law and on proper application of provisions of Indian Evidence Act assessed the evidence, the Revision Court cannot re-appreciate the evidence.

12. Nowhere in Section 498 (A) of IPC, it is stated that it is the offence only if it involves dowry harassment. A married woman may be subjected to cruelties by her husband and other relatives for very many reasons. Section 498(A) only specifies cruelty meted out to the wife by the Husband. As per the evidence available before the trial Court, P.W-1 was forcibly administered some medicine into her mouth by Accused-1 and Accused-2 to abort the child in the womb. When she came to the matrimonial house along



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with the child, they did not allow her and it is alleged that they had threatened using Machete but during evidence, she had not deposed regarding the weapon and the threat extended to her by Accused-1 to Accused-3. The evidence of P.W-1 regarding the sufferings she had undergone at the hands of the Accused Nos. 1 and 2 had been clearly narrated and it attracts the offence punishable under Section 498 (A) of IPC. The learned Judicial Magistrate on proper appreciation convicted Accused-1 and Accused-2 for the offence under 498(A) of IPC. On re-appreciation of evidence, the learned Principal Sessions Judge, Namakkal as Appellate Court had arrived at the same conclusion and confirmed the judgment of conviction recorded by the learned Judicial Magistrate, Rasipuram. In this Revision Case, the claim of the Revision Petitioners is based on Ex.P-5 which according to them, does not contain anything to the effect that there was dowry harassment. However, Ex.P-5 will not help the Accused-1 and Accused-2 to set aside the judgment of conviction recorded by the learned Judicial Magistrate and confirmed by the learned Principal Sessions Judge in Criminal Appeal. Even if there is no dowry harassment, the atrocities and cruelties meted out to P.W-1 had been clearly spoken to by her in her evidence. On the other hand, the Accused did not examine any witness on their side or marked any document to support their weak defence. The attempt of the Accused to prove the accusations levelled against them is futile and infirm. On the other hand, the other witnesses



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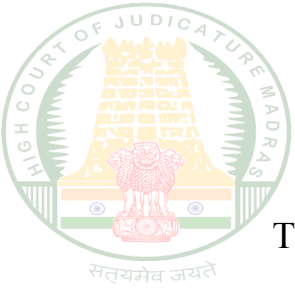
examined on the side of the Prosecution supported the evidence of P.W-1.

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13. In the light of the above discussion, the point for consideration is answered against the Revision Petitioners and in favour of the Prosecution/State. The judgment of conviction recorded by the learned Judicial Magistrate, Rasipuram in C.C.No.50 of 2011, dated 30.05.2017 and confirmed in Appeal by the learned Principal Sessions Judge, Namakkal, in Criminal Appeal No.29 of 2017, dated 26.11.2018 is found proper and the same is to be confirmed.

In the result, **this Criminal Revision is dismissed.** The judgment of conviction recorded by the learned Judicial Magistrate, Rasipuram in C.C.No.50 of 2011, dated 30.05.2017 and confirmed in Appeal by the learned Principal Sessions Judge, Namakkal, in Criminal Appeal No.29 of 2017 dated 26.11.2018 are confirmed.

The learned Judicial Magistrate, Rasipuram is directed to issue warrant in continuation of the judgment of conviction recorded in C.C.No.50 of 2011 dated 30.05.2017 so that the Accused 1 and 2 shall undergo the sentence of imprisonment as per the judgment recorded by the learned Judicial Magistrate, Rasipuram and confirmed in Appeal by the learned Principal Sessions Judge, Namakkal.



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The Inspector of Police, All Women Police Station, Rasipuram is directed to execute the warrant and produce the Accused Nos. 1 and 2 before the learned Judicial Magistrate, Rasipuram to sentence them to undergo the period of imprisonment as ordered by the learned Judicial Magistrate, Rasipuram.

17.04.2025

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Index : Yes/No

Internet : Yes / No.

Speaking/Non-speaking order

To

1. The Judicial Magistrate,
Rasipuram.
2. The Principal Sessions Judge,
Namakkal
3. The Chief Judicial Magistrate,
Rasipuram.
4. The Superintendent of Police,
Namakkal.
5. The Inspector of Police,

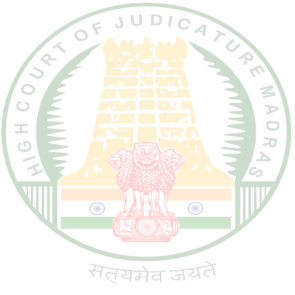


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All Women Police Station,
Rasipuram.

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6. The Additional Public Prosecutor,
High Court, Madras..
7. The Section Officer,
Criminal Section,
High Court of Madras – 600 104



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SATHI KUMAR SUKUMARA KURUP, J.,

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Order in
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