
(1999) 02 MAD CK 0041

In the Madras High Court

Case No : Criminal R.C. No. 351 of 1998 and Cri. M.P. No. 9846 of 1998

Gopal and Others

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 26-02-1999

Acts Referred:

Dowry Prohibition Act, 1961 — Section 4, 6(2)
Penal Code, 1860 (IPC) — Section 326, 406, 498A

Citation : (1999) CriLJ 3939

Hon'ble Judges : K. Natarajan, J

Bench : Single Bench

Advocate : Leelavathi Harihararajan, for the Appellant; V.R. Balasubramanian
Govt. Advocate and Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

K. Natarajan, J.—This Criminal Revision Case has been preferred by the accused 1, 3 and 4 against the judgment of the learned IV

Additional Sessions Judge, City Civil Court, Madras dated 31-3-1998 in C.A. No. 127 of 1997 confirming the conviction and sentence passed

by the learned Chief Metropolitan Magistrate, Chennai dated 18-8-1997 in C.C.No. 461 of 1994 convicting the revision petitioners-accused for

the offences u/s 498A, I.P.C. and Section 4 of the Dowry Prohibition Act and sentencing them to undergo rigorous imprisonment for six months

and to pay a fine of Rs. 500/- for each of the offences and in default of the payment of fine to undergo rigorous imprisonment for a period of 4

weeks. The revision petitioner No. 1-first accused was also convicted u/s 6(2) of the Dowry Prohibition Act read with Section 406, I.P.C. and

sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 500/- and in default to undergo rigorous

imprisonment for a period of 4 weeks.

2. The appeal preferred by the revision petitioners was dismissed by the IV Additional Sessions Judge, City Civil Court, Chennai on 31-3-1998

and the conviction and sentence were confirmed, against which the present revision case has been directed.

3. When the revision case was taken up for hearing the learned counsel for the revision petitioners did not submit argument on merits. It was

represented that the first accused/revision petitioner No. 1 Gopal is the husband and P.W. 1 Baby is the wife. On the complaint of Baby lodged

with the Inspector of Police, All Women Police Station Thousand Lights, Madras-6, the revision petitioners and other were prosecuted and

ultimately they were convicted and sentenced as detailed above. Now the first accused-revision petitioner No. 1 and his wife Baby have sorted out

their disputes and they have compromised the matter on the advice of well-wishers and elders in the family. As per the terms of compromise the

husband Gopal has to pay Rs. 35,000/- to the wife Baby and that they would obtain consent divorce. The affidavit filed by Baby P.W. 1 has been

produced for the perusal of this Court. The learned counsel for both the parties confirmed that the compromise arrived at is true and voluntary

which is placed on record. It was further submitted that the revision petitioners were in jail for 28 days and in view of the compromise entered into

between the parties they need not be sent to jail again and the sentence may be reduced to the period already undergone by them. Placing reliance

on the ruling reported in Ram Pujan and Others Vs. State of Uttar Pradesh, it was submitted, in similar circumstances the Apex Court has held that

the compromise arrived at between the complainant and the accused would be a circumstance in determining the quantum of sentence. It is

submitted in the case before the Supreme Court the accused was convicted for an offence u/s 326, I.P.C. which is a non-compoundable offence.

Likewise the offences complained of in the case on hand are also non-compoundable. However, Supreme Court has held since the parties,

belonged to one family and as they settled their disputes it was not necessary to keep the accused in prison for any longer and the Supreme Court

reduced the sentence of imprisonment to the period already undergone. The said ruling of the Supreme Court has been followed by a learned

Judge of this Court in the ruling in Vilvamani Vs. State, . Taking into consideration that the husband and wife have sorted, out their differences and they have decided to live separately after obtaining a consent divorce as per the compromise arrived at between them I am of the view that the principles laid down in Ram Pujan and Others Vs. State of Uttar Pradesh, are applicable to the facts of the case and that ends of justice would be met by reducing the sentence to the period already undergone.

4. In the result the Criminal Revision Case is allowed in part. The conviction imposed by the learned Chief Metropolitan Magistrate against the revision petitioners for the offences u/s 498A, I.P.C. and Section 4 of the Dowry Prohibition Act and u/s 6(2) of the Dowry Prohibition Act read with 406, I.P.C. against the first accused-revision petitioner No. 1 in C.C. No. 461 of 1994 and affirmed by the IV Additional Sessions Judge, City Civil Court, Chennai is confirmed. But the sentence of imprisonment for a period of six months on each of the offence is reduced to the period of imprisonment already undergone by the revision petitioners. The sentence of fine is confirmed. The revision petitioners will be set at liberty forthwith and their bail bonds shall stand cancelled. Consequently application filed in Cri. M.P. No. 9846/98 to compound the offences is dismissed.