

IN THE COURT OF THE MAGALIR NEETHIMANDRAM,
(MAHILA COURT), COIMBATORE.

Present : Tmt. R.Nandhini Devi, M.L., D.P.M.,
Sessions Judge,
Magalir Neethimandram,(Mahila Court),
Coimbatore.

Friday, this the 20th Day of November-2020

SESSIONS CASE No.77/2019

(The District Munsif-cum-Judicial Magistrate, Mettupalayam committed the case numbered as P.R.C No.12/2018 in Thudiyalur A.W.P.S Crime No. 38/2014 by the order date:19.11.2018 to the District Court, Coimbatore and the same was taken on file in S.C No.77/2019 on the file of the Court of Session, District Court, Coimbatore and made over to Magalir Neethimandram,(Mahila Court), Coimbatore for trial in accordance with law)

Complainant	: For the State Represented through The Inspector of Police, Thudiyalur All Women Police Station. Crime No.38/2014
Name of the Accused 1 to 10	: A1 Muthusamy (31) S/o Velusamy A2 Velusamy (56) (since died) S/o Venkidusamy A3 Sivakumar (47) S/o Venkidusamy A4 Sneha Latha (37) W/o Sivakumar A5 Parathal(a) Parathammal (87) W/o Venkidusamy

	A6 Packiyam (50) W/o Sampath A7 Rani Lakshmi (31) D/o Sampath A8 Mohanambal (50) W/o Rangaraj A9 Rangaraj (a) Nagaraj (54) S/o Sivasami A10 Anusha @ Anisha(19) D/o Rangaraj
Charges framed against the accused	: A1 is charged u/sections 498(A), 313 and 506(i) IPC and 4 of Dowry Prohibition Act. A3 to A7, A9 and A10 are charged u/sections 498(A) and 506(i) of I.P.C and 4 of Dowry Prohibition Act. A8 is charged u/sections 498(A), 113 r/w 313 and 506(i) of IPC and 4 of Dowry Prohibition Act.
Plea of the Accused	: Pleaded not being guilty
Finding of the Judge	: This court finds that A1 found not guilty under Sections 498(A), 313, 506(i) and Section 4 of Dowry Prohibition Act, A3, A4, A5, A6, A7, A9 and A10 are not found guilty under Sections 498(A), 506(i), and Section 4 of Dowry Prohibition Act, A8 found not guilty under Sections 498(A), 113 r/w 313, 506(i) and Section 4 of Dowry Prohibition Act.
Result	: In the result, this court finds that A1 found not guilty under Sections 498(A), 313, 506(i) and Section 4 of Dowry Prohibition Act, A3, A4, A5, A6, A7, A9 and A10 are not found

	guilty under Sections 498(A), 506(i), and Section 4 of Dowry Prohibition Act, A8 found not guilty under Sections 498(A), 113 r/w 313, 506(i) and Section 4 of Dowry Prohibition Act, and acquitted them under Section 235(1) of Cr.P.C. All accused are set at liberty. The bail bond executed by the accused, if any, shall stand cancelled.
Prosecution Conducted by	: Tmt. R.Sarojini, B.A.,B.L., Special Public Prosecutor, Coimbatore.
Pleader for the accused	: Thiru. P.Ramesh Babu, M.L., Advocate, Coimbatore for all Accused

This Session Case coming on 2.11.2020 for final hearing before me in the presence of Tmt.R.Sarojini, M.A.,B.L., Additional Public Prosecutor for the State, and of Thiru. P.Ramesh Babu M.L., Advocate, Coimbatore for all accused and upon perusing the records, hearing their arguments, and having stood over for consideration till this day, this Court delivered the following

JUDGMENT

Compendious of facts as couched in the Final Report are as follows :-

The Inspector of Police had laid Final Report stating that the Complainant Iswarya is daughter of Ruckmani, she does not have Father, on 16.7.2010 her marriage solemnized with A1 Muthusamy in the Samayapuram Mariamman Temple, Trichy District. On 18.7.2010 marriage reception took place in Sri Annapoorna Hotel at Mettupalayam, Coimbatore. After marriage she started her marriage life

with A1 husband and his family members of other A2 to A9 as joint family. A2 Velusamy (since died) is the father-in-law of complainant. A3 is the younger father-in-law of complainant. A4 is the younger mother-in-law of complainant. A5 is the Mother of A2. A6 and A7 couples are the elder Aunt and uncle of A1 and A7 is the daughter of A6. A8 and A9 the couples are Aunt and uncle of A1. A10 is the Son of A8 and A9. All accused along with complainant jointly resided in the house.

At the time of marriage 2 sovereign jewels and cash Rs.30,000/- was given to complainant Iswarya. After wedlock the complainant conceived, at the 8th month pregnancy accused No.8 abetted to be terminated the pregnancy, on instigation of A8, A1 kicked the complainant Iswarya's stomach by leg and blood oozing from vagina that fetus was aborted. After 2 months from this occurrence, again complainant Iswarya conceived, all the accused told that walking is a good exercise and it is well to fetus and complainant and took the complainant for walking by all accused and all accused deliberately abandoned in the middle of the road. When complainant was blinking on the road, good minded people rescued her and admitted in an old-age home. After 4 days that occurrence all the accused called by this management of old-age home and strictly warned and complainant Iswarya was handover to all accused. Since 6.8.2012 complainant gave birth one female baby. But nobody from accused family came to look the child and complainant Iswarya. After lapse of 2 years, on 26.10.2014 all the accused came to complainant's parent house and threatened that complainant Iswarya should come with jewel and cash failing which they will kill the complainant and her baby. Accordingly,

Final Report filed under sections 498(A), 313 and 506(i) of I.P.C.

(2) U/section 207 Cr.P.C, the learned District-Munsif-cum-Judicial Magistrate, Mettupalayam gave copies to all accused except A2 Velusamy (since died) gratis, explained and questioned. Since this case is exclusively triable by the Court of Sessions, the case was committed to the Honourable Principal District Judge, Coimbatore. In this case victim is a woman. Hence, this case made over to this Court to be tried by the Honourable Principal District Judge.

(3) U/section 226 Cr.P.C after appearance of accused before this court Learned Special Public Prosecutor has opened her case describing the charge against accused and contended that sufficient evidence is collected and placed before this court to prove guilty of accused and to get conviction.

This Court has carefully perused the case records and since substantial material placed before this Court as against all accused, this Court decided to frame charges. A1 is charged u/sections 498(A), 313 and 506(i) of IPC. A3 to A10 are charged u/sections 498(A) and 506(i) of IPC. This framed charges read over, explained and questioned and all the accused denied the charges and they are willing to face this case.

When preparing questioning under section 313(1)(b) of Cr.P.C, this Court, invoking under section 216 of Cr.P.C addition charges has been added as against the accused after perusing of the Final Report and its relevant records, as below:-

A1 is charged u/sections 498(A), 313 and 506(i) IPC and 4 of Dowry Prohibition Act.

A3 to A7, A9 and A10 are charged u/sections 498(A) and 506(i) of I.P.C and 4 of Dowry Prohibition Act.

A8 is charged u/sections 498(A), 113 r/w 313 and 506(i) of IPC and 4 of Dowry Prohibition Act.

This altered charges read over to all accused and explained and questioned they denied the charges. Since, A2 died charges abated against A2. Since, Pw.1 and Pw.2 are turned hostile, Both side are not willing to recall prosecution evidence as to altered charges.

(4) The case of the prosecution as deposed by the prosecution witnesses are as follows :-

PW.1 Complainant Iswarya is a key to open the prosecution case. She is examined as PW.1 she deposed that on 16.7.2010 her marriage took place with the A1. One year alone she was lived her husband A1. During this period she used to go and come to her parents home. Out of this wedlock on 6.8.2012 she gave birth one female baby by name Srika. She left her husband and lived separately for over 6 years. She gave a complaint before Thudiyalur All women police station and her signature found in that written complaint is marked as **Ex.P.1**.

PW.2 Ruckmani deposed that she is a mother of PW.1 Iswarya. About 10 years ago Pw.1 was married to A1. All other accused are relative of A1. At the time of marriage they demanded 10 sovereign jewel. But she could put 2 sovereign only. After marriage both of them lived happily. One female child gave birth. 2nd child aborted. A1 and A5 inflicted much cruelty by beating with wire cable, belt. When P.w 1

Iswarya was on the family line all accused did not give food to PW.1. So, PW.2 took her daughter from accused's home. After one year of the marriage, female child was born. When the child was 6 month baby. A1 took PW.1 Iswarya along with her baby to his home. But she did not provide milk to that child. Pw.1 gave a complaint. But she does not know in which station Pw.1 gave complainant.

PW.3 Tmt.S.Amutha, the Inspector of Police deposed that she is an Investigation Officer the case that on 10.11.2017 at 11.00 hrs when she was in the station house PW.1 Iswarya came and gave a written complain. That written complaint was registered as crime No.38/2014, u/sections 498(A), 313 and 506(i) of I.P.C. That written complaint is marked as **Ex.P2**. FIR is marked as **Ex.P.3**. Soon after registration of F.I.R written complaint as well as printed FIR submitted to the learned Judicial Magistrate, Mettupalayam and on the same day she enquired the witnesses Iswarya, Ruckmani, Krishnamurthy, Kavitha and Vanitha and their statements reduced into writing. In her investigation she found that occurrence took place. So, she searched the accused and nabbed A1, backside of Abirami theatre in Karamadai road and remanded to judicial custody. Since other accused got the anticipatory bail before the Honourable High Court of Madras and she did not arrest other accused. After completion of her investigation she filed her final report. Since, PW.1 and PW.2 were turned hostile. Other independent witnesses dispensed with on the side of the prosecution.

(5) Prosecution side 3 witnesses are examined and Exhibits P1 to P3 are marked. No Material Object is marked.

(6) After the closure of the evidences of the prosecution, under Sec. 313(1)(b) of Cr.P.C all incriminating circumstances appears against all accused except A2(since died) compiled as questionaries and asked at all accused. They denied their complicity in this case and stated that the false case foisted upon them. They did not examine any witnesses on their side.

(7) **The point for determination in this case is whether the prosecution has proved its case beyond all reasonable doubt?.**

Point :

(a) The erudite Special Public Prosecutor has contended that this case shows young horrible women marriage life. After marriage she was subjected to physical cruelty. Her first pregnancy was terminated by abatement of A8 kicking on the PW1's abdomen fetus aborted by A1. Such gruesome abortion is not heard by us. Culprits should be met findings and punishments of the Court. She prays for conviction.

(b) Oppositing this contention, erudite defence Counsel has argued that PW1 is a victim and projected as affected party. But she becomes hostile witness. She does not depose iota extent of evidences as stated in the 161 (3) crpc statement. PW.2 in her chief deposed that PW.1 was beaten-up by A1 and A8 with belt, cable wire. But in the cross-examination she admits that on instruction of police she deposed as supra. She turned hostile. No truth is attached with the prosecution witness. Benefit of doubt goes to the accused. He prays for acquittal.

(c) On go through of entire records it reveals that on 26.10.2014 when last occurrence took place all accused criminal intimidated against that PW1. Prior to this occurrence, this PW.1 was subjected to cruelty when she was on the family line she was abandoned by all accused in the middle of the road. Above all, PW.1 pregnancy was aborted by A1 kicking with leg by abetment of A8. This is a case placed as such before this court. But in the evidence of PW1, she deposed that only one year she was stayed with A1 and she gave birth one female child by named Srika. In that one year, she used to go and come to her parents home. She did not continuously lived with A1. But she does not open her mouth to say relating to harassment, ill-treatment, cruelty, abused the poverty of PW.1's family as stated in her written complaint and she does not depose that the termination of pregnancy and criminal intimidation as explained in her written complaint. On perusal of Ex.P2 written complaint this court noticed that one over writing made on date of complaint.

(d) PW.3 is the Investigation Officer deposed in her cross-examination that all the occurrence took place in the year 2010. But complaint was given in the year 2014. Actually the records shows that in the year 2010 PW1 Iswarya was harassed demanding jewel and cash and her pregnancy was violently kicking by A1 with leg and aborted. In the year 2012 She gave birth a female child by name Srika. After lapse of two years in the year 2014 PW1 was criminal intimidated by all accused. But without mind application simply PW.3 deposed that all occurrence took place as if in the year 2010. Her slackness in deposing evidence makes much worry in the mind of the Court.

(e) Occurrence took place on 26.10.2014. But 10.11.2014 PW.1 gave complaint in the police station. Why this 15 days delay happened. That delay is not explained on the side of the prosecution. In the chief examination PW2 Ruckmani deposed that her daughter was much affected by cruelty all the accused. But the cross-examination she deposed that on instruction of police she deposed in the chief examination. So her trustworthy is suspected by this court. It does not inspire confidence to this court. On careful perusal of PW2 evidence it reveals that after registration of this case PW 1 married and she is on family line, these changed circumstances would have made not to open her mouth considering her 2nd marriage and her married life. Anyway without evidence on record any court cannot not give conviction based on presumption and assumption. PW.1 evidence is neither contradiction nor corroboration to her written complaint. She does not open her mouth. At this juncture, this court throws to give benefit of doubt to all accused. Prosecution has miserably failed to prove its case beyond all reasonable doubt.

In the result, this court finds that A1 found not guilty under Sections 498(A), 313, 506(i) and Section 4 of Dowry Prohibition Act, A3, A4, A5, A6, A7, A9 and A10 are not found guilty under Sections 498(A), 506(i), and Section 4 of Dowry Prohibition Act, A8 found not guilty under Sections 498(A), 113 r/w 313, 506(i) and Section 4 of Dowry Prohibition Act, and acquitted them under Section 235(1) of Cr.P.C. All accused are set at liberty. The bail bond executed by the accused, if any, shall stand cancelled.

(f) Since none of the material object is marked, no order is passed as to property disposal.

Dictated to the Steno-typist, transcribed and typed by her, and corrected and pronounced by me in open Court, Friday, this the 20th Day of November – 2020.

Sd/R.Nandhini Devi,
SESSIONS JUDGE,
MAGALIR NEETHIMANDRAM,
(MAHILA COURT),
COIMBATORE.

ANNEXURE:

LIST OF WITNESSES EXAMINED:

On the Prosecution Side:

P.W 1 Iswarya

P.W 2 Ruckmani

P.W 3 S.Amutha, Inspector of Police, AWPS, Thudiyalur

On the Defence Side : NIL

LIST OF EXHIBITS MARKED:

On the Prosecution Side:

Ex.P1	10.11.2014	Signature alone of P.W1 found in complaint
Ex.P2	10.11.2014	Complaint
Ex.P3	10.11.2014	First Information Report

On the Defence Side : NIL

NOTE:

1. The accused were in bail during the time of trial.
2. Witnesses are not retained above three days.
3. Slip proceedings issued to the Police.
4. All Accused are acquitted u/s.235(1) of Cr.P.C.

Sd/R.Nandhini Devi,
SESSIONS JUDGE,
MAGALIR NEETHIMANDRAM,
(MAHILA COURT),
COIMBATORE.

JUDGMENT

IN

S.C No. : 77 / 2019

DATE : 20.11.2020

Magalir Neethimandram,
(Mahila Court),
Coimbatore.

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