

**Petitioner Vs. Respondent**

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**Court : Chennai**

**Decided On : Dec-22-2016**

**Judge : M. Venugopal**

**Appeal No. : CrI.M.P.No. 13763 of 2016 In CrI.A.No. 839 of 2016**

**Appellant : Petitioner**

**Respondent : Respondent**

**Judgement :**

**M. Venugopal, J.**

1. Heard Mr.G.Pugazhenthii, Learned counsel for the Petitioner/ Appellant and Mr.R.Ravichandran, Learned Government Advocate (CrI. Side) for the Respondent/Complainant.

2. The Petitioner/Appellant/Accused has focussed the present Criminal Appeal before this Court (as an aggrieved person) as against the Judgment dated 15.11.2016 in S.C.No.53 of 2016 passed by the Learned Sessions Judge, Fast Track Mahila Court, Ariyalur.

3. The Learned Sessions Judge, Fast Track Mahila Court, Ariyalur, while passing the Judgment in S.C.No.53 of 2016 on 15.11.2016, had found the Petitioner/Appellant/Accused not guilty under Section 306 I.P.C. and acquitted

him. However, in respect of the offence under Section 498 A I.P.C., it found him guilty and sentenced him to undergo Rigorous Imprisonment for a period of two years and further directed to pay a fine of Rs.5,000/-, in default of payment of fine, the Appellant/Accused was further directed to undergo Simple Imprisonment for a period of six months.

4. Besides the above, the trial Court, in its Judgment, had also mentioned that the Appellant/Accused undertook to pay a sum of Rs.50,000/- towards compensation for P.W.1 (mother of the deceased). On such deposit, it was further ordered that the said sum shall be disbursed to P.W.1 .

5. Assailing the correctness, Legality of the Judgment passed by the trial Court in S.C.No.53 of 2016, the Appellant/Accused has filed the instant Appeal before this Court, by taking a plea that when the trial Court had disbelieved the prosecution case in respect of an offence under Section 306 I.P.C., then, it ought not to have convicted the Appellant/Accused in respect of an offence under Section 498 A (based on some evidence).

6. It is represented on behalf of the Appellant/Accused that a sum of Rs.5,000/- was remitted towards fine amount. Furthermore, a sum of Rs.50,000/- ordered to be paid towards compensation for P.W.1 was also deposited before the trial Court to the credit of the S.C.No.53 of 2016.

7. Per contra, it is the submission of the Learned Government Advocate (Crl. Side) that the trial Court, in the main case in S.C.No.53 of 2016, on behalf of the Respondent/Prosecuting Agency, had examined witnesses P.W.1 to P.W.16 and marked Exs.P1 to P13. On the side of the Appellant/Accused, no one was examined as witness and no document was marked. Further, the trial Court had taken into account the entire oral and documentary evidence available on record and found the Petitioner/Appellant/ Accused guilty under Section 498 A I.P.C. and imposed necessary punishments thereto.

8. At this stage, this Court, on perusal of the 'Memorandum of Grounds of Appeal' of the Appellant/Accused is of the considered view that the Petitioner/Appellant has raised some arguable points which require detail consideration in the hands of

this Court at the time of hearing of the main Criminal Appeal.

9. It is an axiomatic principle in Law that an 'Appeal' is a continuation of Original Proceedings of the trial Court. In the instant case, the Appellant/Accused has filed the present Criminal Appeal, as a dissatisfied person, in respect of the Judgment passed by the trial Court in S.C.No.53 of 2016 and in fact, he has exercised his statutory right of filing the Appeal in question, as envisaged under Criminal Procedure Code.

10. Considering the fact that the Petitioner/Appellant has preferred the instant Criminal Appeal before this Court and also, this Court taking note of an important fact that the present Criminal Appeal is not likely to be taken in the near future and also this Court, keeping in mind the attendant facts and circumstances of the present case in an integral manner, at this stage, is inclined to suspend the Substantial Sentence of Imprisonment alone and orders the release of the Petitioner/Appellant/Accused on his executing a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties each for a like sum to the satisfaction of the Learned Sessions Judge, Fast Track Mahila Court, Ariyalur and on further condition that he shall appear before the said Court on the First Working day of every English Calender month at 11.00 a.m. without fail, till the disposal of the Criminal Appeal.

11. Accordingly, the Crl.M.P.No.13763 of 2016 is ordered, on above terms.

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