

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Ammasi Vs. State Represented by Sub-inspector of Police, Omalur and Others

Ammasi Vs. State Represented by Sub-inspector of Police, Omalur and Others

SooperKanoon Citation : sooperkanoon.com/785610

Court : Chennai

Decided On : Feb-09-1996

Reported in : 1997CriLJ1891

Judge : M. Karpagavinayagam, J.

Acts : [Indian Penal Code \(IPC\), 1860](#) - Sections, 109, 147, 148 and 506; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 313, 397 and 401

Appeal No. : Criminal Revn. Case No. 506 of 1993

Appellant : Ammasi

Respondent : State Represented by Sub-inspector of Police, Omalur and Others

Advocate for Def. : P. Govindarajan, Govt. Adv. and ;R. Balasubramanian, Adv.

Advocate for Pet/Ap. : B. Kumar, Adv.

Judgement :

ORDER

1. This revision has been preferred by the petitioner Ammasi, who is the first informant in this case against the judgment of the Judicial Magistrate, Omalur in C.C. No. 296 of 1992 seeking to set aside the same acquitting the respondents 2

to 8 in respect of offences punishable under Sections 6 and 5 of the Child Marriage Restraint Act, hereinafter referred to as the 'Act'.

2. The case of the prosecution is that on 27-3-1992 at Omalur Agraharam the respondents 2 to 8 conducted a child marriage between one Palaniswami of 19 years and Kumuda aged about 17 years and thereby they committed offences as stated in para 1 above.

3. On the side of the prosecution PWs-1 to 6 were examined and Exs. P-1 to P-5 were marked. PW-1 Ammasi, the petitioner belonged to Palpakki village. One Palaniswami is his son. He was only 19 years old at the time of the alleged marriage PW-1 knows all the accused. On 5-3-1992 PW-1's son Palaniswami was kidnapped by all the accused. On knowing this the petitioner asked the accused to hand over his son, but, the accused did not do the same. On 27-3-1992 at about 9.10 a.m. all the accused joined together and took Palaniswami and the second respondent's daughter Kumudha from Palpakki Road to Dharmapuri Main Road. This was seen by PW-2, who, in turn, informed the same to PW-1. Then PWs 1 and 3 came in search of their son. They saw Palaniswami and Kumudha in front of Pillayar temple at Omalur Agraharam. When questioned about the highhanded act of the accused persons, A1 said that the marriage is being held only with consent of his son Palaniswami. When PW-1 pointed out the age of his son. A1 scolded and insulted him. In spite of his resistance the accused arranged for the marriage in Pillayar temple and performed the same under the Hindu rites. All the accused persuaded the complainant's son Palaniswami to tie thali on the neck of Kumudha and they exchanged garlands as well. When PW-1 tried to prevent the same A-1 and A-7 threatened him with dire consequences. So PW-1 escaped from the place and went to Omalur Police Station and gave Ex. P-1 complaint. Ex P-2 is the birth certificate which shows the date of birth of Palaniswami as 20-7-1973. Then the police registered a case in Cr. No. 251/92 under the Child Marriage Restraint Act read with Section 109, I.P.C. read with Section 18 of the Hindu Marriage Act, 1955 read with sections 147, 148 and 506(2), I.P.C. PW-4, the Sub-Inspector of Police, took up investigation, examined two witnesses and arranged to send both Palaniswami and Kumudha for medical examination. After the investigation was over on 27-8-1992 a charge-sheet has been filed against the respondents 2 to 8.

4. When the accused were questioned under Section 313, Cr.P.C., with reference to the in-criminating circumstances found on the record, the respondents-accused chose to deny their complicity in the crime. However, on behalf of the defence. Palaniswami, the alleged bridegroom, was examined as DW-1. He deposed that the complaint given by his father was a false one. Though he admitted having love affair with Kumudha he denied the performance of the marriage. He also gave details about the enmity between A-1 and his father PW-1 petitioner. After elaborate trial and consideration of the materials adduced before the Court, the learned Magistrate thought it fit to acquit the accused persons on the ground that the offence was not proved beyond reasonable doubt. Against the said judgment this revision has been preferred by the petitioner. The police did not file appeal since they thought that it is not a fit case for appeal.

5. Heard learned counsel for the petitioner as well as the respondents.

6. Learned counsel for the petitioner took me through the deposition of the witnesses and also the judgment and made his submissions that the evidence of DW-1 is not a reliable one and as such the prosecution case ought to have been accepted by the trial Court. It is pertinent to note that this revision against the acquittal is filed under Sections 397 and 401 of the Criminal Procedure Code by the first informant in the police case. The State did not file any appeal in this case. If such an appeal is filed in this Court, then this Court will appreciate the evidence and come to a different conclusion if so warranted. But, being a revision the scope is very limited and this Court is not likely to interfere with the judgment of the trial Court. because the evidence has been properly appreciated by the trial Court and rejected. Time and again Courts have held even the misapprehension of facts by the Court below cannot be a ground for interference. More so, DW-1 the son of the petitioner, has himself deposed in the Court that there was no marriage between himself and Kumudha. His evidence has been accepted by the trial Court which has come to the conclusion that there was no marriage at all. In the light of the above finding of the trial Court on the basis of factual aspects, I do not want to interfere with the same in this revision. Hence I find that this revision is liable to be dismissed and it is accordingly dismissed.

7. Revision dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com