

Gopal and ors. Vs. State

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SooperKanoon Citation : sooperkanoon.com/820856

Court : Chennai

Decided On : Feb-26-1999

Reported in : 1999CriLJ3939

Judge : K. Natarajan, J.

Acts : [Dowry Prohibition Act, 1961](#) - Sections 4 and 6(2); [Indian Penal Code \(IPC\), 1860](#) - Sections 326, 406 and 498A

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

Appellant : Gopal and ors.

Respondent : State

Advocate for Def. : V.R. Balasubramanian Govt. Adv. and ;Public Prosecutor

Advocate for Pet/Ap. : Leelavathi Harihararajan, Adv.

Disposition : Petition allowed

Judgement :

ORDER

K. Natarajan, J.

1. 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 under Section 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 under Section 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 Rampujan v. State of Uttar Pradesh, : 1973

CriLJ1612 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 under Section 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 v. State by Inspector of Police, Pemampet : 1998(2)CTC598 . 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 : 1973 CriLJ1612 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 under Section 498A, I.P.C. and Section 4 of the Dowry Prohibition Act and under Section 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.