

C.Selvakumar Vs. State

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Court : Chennai

Decided On : Feb-08-2013

Judge : S. Palanivelu

Appellant : C.Selvakumar

Respondent : State

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS Date:08.02.2013 Coram THE HONOURABLE MR. JUSTICE S. PALANIVELU CRIMINAL REVISION CASE No.421 of 2012 and M.P.No.1 o

1. C.Selvakumar 2. C.Parvathy 3. C.Selvaraj 4. P.Jayaraj ... Petitioners -Vs.- 1. State represented by The Inspector of Police All Women Police Station (Central) Coimbatore. (Cr.No.38 of 2007) 2. T.Vellai Vinayagam ... Respondents (Second respondent is impleaded as per the order of this Court dated 10.10.2012 made in M.P.No.2 of 2012) Revision Case is filed under Sections 397 and 401 of Cr.P.C., against the order dated 07.03.2012 made in D.No.75 in S.C.No.121 of 2009 on the file of the Mahila Court, Coimbatore and to set aside the same. For Petitioners : Mr.C.S.Dhanasekaran For Respondent-1: Mr.C.Emilias Government Advocate (Crl. Side) For Respondent-2: Mrs.A.Malath Devapriyam ----- ORDER The petitioners are facing trial in S.C.No.121 of 2009 on the file of the Mahila Court, Coimbatore. The case has been reserved for judgment after recording of evidence and arguments were over. At that time, the court issued a communication on 07.03.2012 to both parties stating that for altering charges, the case is suo-motu

reopened. Originally the charge was framed under Section 498 -A IPC stating that the accused persons demanded 30 sovereigns of gold jewels as dowry. The altered charge would show that they demanded 35 sovereigns of gold jewels.

2. Learned counsel for the petitioners would submit that in the charge some improvements have been made during alteration, and by means of those, the witnesses have been recalled and cross-examined, which will prejudice the accused persons, and that the changing of weight of jewels would not amount to either altering the charge or addition of charge, and that the Court cannot suo-motu reopen the case for such an alteration to the prejudice of the accused and that erroneous order of the court below may be set aside.

3. Inter alia, learned Government Advocate (Crl. Side) would submit that the reading of Section 216 of Cr.P.C. would show that it is the discretion of the Court to alter the charge and that altering the weight of jewels in the charge would not cause any prejudice to the accused and that no valid reason is shown to set aside the order of the Court below.

4. Section 216 (1) of Cr.P.C., reads as follows:- "216. Court may alter charge. (1) Any court may alter or add to any charge at any time before judgment is pronounced." The very reading of Section shows that it is the discretion of the Court to alter or to add any charge before the judgment is pronounced.

5. In view of the above, this Court is of the opinion that change in weight of the jewels is a part of charge and hence, it would amount to alteration of charge. It is for the Court to exercise its discretion. It is stated that witnesses have been recalled and reexamined and hence, the accused persons have been given adequate opportunities to meet the charges. In such situation, it would not cause any prejudice to the accused. Hence, there is no valid ground shown in this Revision to set aside the order of the court below dated 07.03.2012. The order challenged before this Court is confirmed and this Revision is devoid of merits, which suffers dismissal.

6. Hence, the Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed. 08.02.2013 Index:Yes/No Internet: Yes/No mra

To 1. The Judge, Mahila Court, Coimbatore.

2. The Inspector of Police All Women Police Station (Central) Coimbatore.
(Cr.No.38 of 2007) S. PALANIVELU,J.

mra CRIMINAL R.C.No.421 of 2012 and M.P.No.1 o

08. 02.2013

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