

(2014) 11 MAD CK 0304

Madras High Court

Case No: Criminal Appeal No. 461 of 2004

Ponmalai Thevar

APPELLANT

Vs

D. Rajendran

RESPONDENT

Date of Decision: Nov. 6, 2014**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 149, 344, 363, 368, 469

Hon'ble Judges: R.S. Ramanathan, J**Bench:** Single Bench

Judgement

R.S. Ramanathan, J.

The appellant is the complainant in C.C.No. 5/2000 on the file of the learned Judicial Magistrate - VII, Coimbatore. He filed a private complaint against the respondents stating that the respondents committed offence punishable under Sections 344, 363, 368, 469, 506(2) IPC r/w 149 IPC and that private complaint was dismissed by the learned Judicial Magistrate No. VII, Coimbatore. Aggrieved over the same, the present appeal was filed.

2. The learned counsel for the appellant submitted that the case of the appellant is that his son Chandrasekar was employed as Sub-Inspector of Police and his marriage with one Thilagavathi, daughter of Rajagopal was fixed to be solemnized on 3.5.1999 and other arrangements regarding the marriage were also made. While so, the first respondent with the intention of performing the marriage of his step sister Pankajam, asked PW.3 Pankajam to give a phone call to Chandrasekar, son of the appellant, to come to temple at Eachaner, Coimbatore, and when his son went to the temple, he was taken by the respondents and he was compelled to marry PW.3 Pankajam. The appellant was informed by the first respondent on 3.9.1999 that the marriage between the son of the appellant and Pankajam was performed by them on 16.8.1999 and the marriage had to be registered and asked the appellant to come to the Sub-Registrar's Office, Singanallur, and before the Sub-Registrar's office, son of the appellant was threatened but he refused to admit

the marriage before the Sub Registrar and therefore, the marriage could not be registered and as the respondents kidnapped the son of the appellant on 16.8.1999 and forced him to marry PW.3 Pankajam, all of them have committed various offences as aforesaid and hence, they are liable to be punished for those offences.

3. The learned counsel further submitted that PW.2 son of the appellant gave evidence regarding kidnapping committed by the respondents and forcible marriage performed by the respondents between the appellant's son Chandrasekar and PW.3 Pankajam, and also the attempt made by them to register the marriage and that was prevented by PW.2, and these facts were also spoken to by PW.3 Pankajam who was forcibly given in marriage to PW.2 and that marriage was not valid marriage according to law and he, therefore, submitted that having regard to the evidence of PW.1 to PW.3, the trial Court ought to have convicted the respondents for the offences aforesaid but the trial Court without properly appreciating the evidence of PW.1 to PW.3 acquitted the respondents and therefore, the appeal is filed.

4. Mr.Sairam, learned counsel for the respondents submitted that, admittedly, PW.3 is a relative of PW.2 and both of them have decided to marry each other and that was not accepted by the appellant and therefore, the son of the appellant, namely, PW.2 married PW.3 and later, the marriage was not accepted by the appellant. PW.3 also with the intention of safeguarding her life and with the intention of living with PW.2 gave false evidence and these aspects were properly appreciated by the trial Court and the trial Court found that the prosecution case was not proved beyond reasonable doubt and acquitted the respondents and the judgment of the trial court does not call for interference.

5. From the arguments submitted above, it has to be seen whether the appellant has proved the case against the respondents beyond reasonable doubt.

6. Admittedly, PW.1, PW.2, and PW.3 are relatives. PW.3 Pankajam is the step sister of A.1 and it is also admitted by PW.3 that he wanted to marry PW.2 and as PW.2 refused to marry her, she attempted to commit suicide and in this regard, earlier, a complaint was given before the Superintendent of Police against the appellant and his son PW.2 and that was also admitted by the appellant. Further, according to the prosecution, PW.2 was kidnapped by the respondents on 16.8.1999 and marriage between PW.2 and PW.3 were performed on that date and they were produced before the Registrar's Office on 3.9.1999 where PW.2 refused to admit the marriage. No explanation was given by PW.1 for not giving any complaint against the respondents for the incident that took place on 16.8.1999 and on 3.9.1999. Admittedly, PW.2 is an adult and he also wanted to marry PW.3 and subsequently, he agreed to marry one Thilagavathy. It is stated that PW.3's elder sister was not married and without the marriage of elder sister of PW.3, PW.3 did not want her marriage to be performed and therefore, PW.2 did not marry PW.3. It is also admitted that no evidence was produced by the prosecution regarding the incident

that took place on 3.9.1999 and no independent witness was examined to prove that PW.2 was kept in illegal detention from 16.8.1999 to 3.9.1999. Further, the complaint was dated 25.11.1999 and no explanation was given for the long delay. Considering all these infirmities and also the contradictions in the evidence of PW.1 to PW.3, the trial Court rightly acquitted the respondents and dismissed the complaint. I do not find any reason to interfere with the judgment of the trial Court.

7. In the result, the Criminal Appeal is dismissed.