

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE B.SUDHEENDRA KUMAR

TUESDAY, THE 8TH DAY OF DECEMBER 2015/17TH AGRAHAYANA, 1937

Crl.Rev.Pet.No. 3146 of 2009 ()

CC 233/2007 of J.M.F.C., KODUNGALLUR

REVISION PETITIONER(S)/REVN.PETITIONER/DEFACTO CONPLAINANT:

SUHARA,
AGED 34 YEARS, D/O.THOTTUNGAL KANNEZHATH
KUNJU MOPIDEEN, S.N.PURAM VILLAGE, PORI BAZAR
KODUNGALLUR TALUK, THRISSUR DISTRICT.

BY ADVS.SRI.V.M.KRISHNAKUMAR
SRI.K.A.MOHAMMED SIDHIQUE

RESPONDENTS/ACCUSED & STATE:

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1. MOHAMMED HUSSAIN @ KOCHU,
S/O.ABDUL RAHIMAN, PATHIYASSERY HOUSE, VALAPPAD
THRISSUR DISTRICT.
 2. STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

R2 BY PUBLIC PROSECUTOR, SHRI.R.GITHESH
,R1 BY ADV. SRI.RAJIT

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON
08-12-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

B.SUDHEENDRA KUMAR, J.

Crl.R.P.No.3146 of 2009

Dated this the 8th day of December 2015

O R D E R

The revision petitioner is the *de-facto complainant* in C.C. No.233 of 2007 on the files of the court of the Judicial Magistrate of First Class, Kodungallur. The above case was charge-sheeted by the police for the offence under Section 498A I.P.C.

2. The prosecution allegation can be briefly stated thus:- On 31.7.2003, the first respondent married PW1 as per the customary rites of the parties and thereafter, they resided as husband and wife. While so, the first respondent and his family members treated PW1 with cruelty for the

purpose of obtaining more dowry from her house.

3. After completing the investigation, Police laid the charge before the court. The first respondent appeared before the court below in response to the process issued from the court.

4. Before the court below, PW1 to PW9 were examined and Exts.P1 to P7 were marked for the prosecution.

5. The court below, after evaluating the oral and the documentary evidence adduced by the prosecution found that the evidence on record was not sufficient to hold that the first respondent had ill-treated PW1, so as to attract the offence under Section 498A I.P.C. and consequently, the court below acquitted the first respondent. Aggrieved by the said order of acquittal, this revision petition has been

filed.

6. Before the court below, PW1 had given evidence in support of her case. PW1 did not state anything to the effect that she was manhandled by the first respondent demanding more dowry. Eventhough PW1 stated that she was admitted in the hospital due to the manhandling by the first respondent, no medical certificate was also produced before the court to prove the same.

7. PW2 did not have any direct knowledge with regard to the cruelty shown by the first respondent. PW3 stated that the articles given to PW1 at the time of marriage had been returned by the first respondent to PW1.

8. The solitary evidence available before the court to prove the cruelty is the evidence of PW1. The court below found that the evidence of PW1 was not sufficient to prove

the cruelty, so as to attract the offence under Section 498A I.P.C. Having gone through the relevant inputs, I am satisfied that the evidence of PW1 is not sufficient to hold that PW1 was subjected to cruelty by the first respondent, as provided under clause (a) or clause (b) of explanation to Section 498A I.P.C. and consequently, I find no reason to interfere with the finding by the court below that the first respondent is not guilty under Section 498A I.P.C.

In the result, this revision petition stands dismissed.

Sd/-
B.SUDHEENDRA KUMAR,
JUDGE

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PA to Judge