

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.15 OF 2013

ORDER:

The present criminal revision is filed by the petitioner/A-3 under Section 397 and 401 of Cr.P.C. aggrieved by the judgment dated 28-12-2012 passed in CrI.A.No.50 of 2012 on the file of III Additional District & Sessions Judge, (Fast Track Court), Asifabad, wherein the judgment of the trial Court in C.C.No.214 of 2008 was confirmed.

2. The case of the prosecution is that the informant married A-1 on 31-03-2000 and at the time of marriage her parents gave Rs.67,000/- in cash and other household articles as dowry. Both of them lived happily for one year and they were blessed with a female child on 26-04-2001. Since then A-1 to A-5 started harassing the complainant physically and mentally demanding additional dowry. Though several panchayaths were held, the accused did not mend their attitude and ultimately necked out the informant from the house. The informant lodged a report before the CCC Naspur police and a case in Cr.No.43 of 2002 came to be registered for the offences punishable under Sections 498-A r/w.109 IPC and Sections 3 and 5 of Dowry Prohibition Act. Later a charge sheet was filed against A-1 to A-5 for the above mentioned offences.

3. The learned Judicial Magistrate of First Class, Mancherial, took cognizance of the case and framed a charge for the offence punishable under Sections 498-A r/w.109 IPC and Sections 3 and 5 of Dowry Prohibition Act against the accused. In order to prove its case, the prosecution examined PWs.1 to 9 and got marked Exs.P1 to P5.

4. After closure of the prosecution evidence, accused were examined under Section 313 Cr.P.C putting all incriminating material available against them. Accused denied the material evidence and reported no oral or documentary evidence on their behalf.

5. The trial Court, after hearing the arguments and after perusing the record, convicted A-1 for the offence punishable under Section 498-A IPC and sentenced him to undergo Rigorous Imprisonment for a period of one year and to pay a fine of

Rs.5,000/-, and in default of payment, to undergo Simple Imprisonment for a period of one month. Further A-1 is sentenced to under go Rigorous imprisonment for a period of one year and also to pay fine of Rs.5,000/- for the offence under Section 4 of Dowry Prohibition Act in default of payment, to undergo Simple Imprisonment for a period of one month. All the sentences were directed to run concurrently.

6. Aggrieved by the conviction and sentence passed by the trial Court, the accused preferred Criminal Appeal No.50 of 2012 before the II Additional District & Sessions Judge (FTC), Asifabad wherein the Appellate Court after considering the evidence on record confirmed the conviction and sentence.

7. Being aggrieved by the judgment of the Appellate Court passed in Criminal Appeal No.50 of 2012, A-1 preferred the present revision case.

8. Learned counsel for the Revision Petitioner/A-1 mainly submits that the evidence of Pws.1 to 3 cannot be relied upon as they are interested witnesses.

9. PW.1 is the victim. She reiterated the contents of report stating that since the birth of female child, all the accused harassed her for additional dowry of Rs.60,000/-and that A-1 used to beat her demanding such additional dowry. She further deposed that at the instance of her mother/PW.2 panchayaths were held for four or five times, but the accused did not accept to take her back till the demand was fulfilled. She deposed that since then she is living in her parents house and finally gave a report to the police.

PW.2 who is the mother of PW.1 also deposed that after the birth of female child, the accused started harassing PW.2 for additional dowry of Rs.60,000/- and as their demand could not be fulfilled, the accused necked out PW.1 and her daughter from their house. She also deposed that though panchayaths were held, the accused did not accept to take back PW.1 unless the demand was fulfilled. She further stated that A-1 and PW.1 executed a document agreeing to take divorce and in that document also A-1 agreed to deposit Rs.30,000/- in the name of the daughter

of PW.1 but failed to do so.

PW.3 is mediator in whose presence the panchayaths were said to have been conducted. But he resiled with the prosecution version stating that he did not know the accused and facts of the case.

Though Pws 1 and 2 were cross-examined at length, nothing useful was elicited to discard their evidence. Merely because PW.1 is the wife of the accused No.1, it cannot be said that she is interested witness and that her evidence cannot be accepted.

10. One of the argument, which was advanced by the learned counsel for the petitioner was that the present case came to be initiated since the accused failed to pay the amount, which he agreed to pay at the time of panchayath. It is to be noted that if the accused agreed to pay the money on certain conditions, the same would have recorded in the panchayath. If no such document is available, the accused should have examined a panchayatdor to prove the same. In fact he reported no evidence on this behalf. If the said document was brought on record it will come to light the circumstances under which the parties have agreed to receive and also as to what made A-1 to deposit certain amount in the name of his daughter. As per the defence, since A-1 did not pay the said amount, a false report has been lodged. But both the Courts below held that no woman would spoil her life on failure to pay a meager amount. Having appreciated the evidence, concurrently held that the offence under Section 498-A IPC is made out. As there is no illegality or incorrectness in the order under challenge, the same warrants no interference. At this stage, learned counsel for the Revision petitioner submits that the incident took place in the year 2000 and the crime was registered in the year 2002 and as the petitioner is moving around the Court since last 13 years seeks reduction in sentence.

11. Having regard to the circumstances, this Court while confirming the conviction under Sections 498-A IPC and Section 4 of Dowry Prohibition Act, reduces the sentence imposed under both counts to that of (50) days.

12. With the above modification, the Revision is disposed of. Miscellaneous Petitions pending if any in this criminal revision, shall stand closed.

C. PRAVEEN KUMAR, J

25-03-2015

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