

HON'BLE SRI JUSTICE M.S.K.JAISWAL

Criminal Revision Case No.1883 of 2007

ORDER:-

The revision is filed by the *de facto* complainant/PW.1 in C.C.No.408 of 2001 on the file of the XIII-Additional Chief Metropolitan Magistrate (Mahila Court) , Hyderabad, questioning the acquittal of respondents No.2 to 8, who were A.1 to A.7, in the case. The revision petitioner/PW.1 filed the complaint alleging offences punishable under Section 498-A I.P.C., and Sections 4 and 5 of the Dowry Prohibition Act. The case was registered and charge-sheet was filed.

2. The brief facts of the case of the prosecution are as under:-

A.1 is the husband of the *de facto* complainant/PW.1. Their marriage took place on 14-05-1998 as per Hindu rites and customs at Hyderabad. A.2 to A.7 are the relatives of A.1. At the time of marriage, as demanded by the accused, substantial amount of dowry both in the shape of cash and kind was given. After the marriage, all the accused including her husband demanded additional dowry and beat her and harassed her mentally and physically stating that they will marry her husband with another woman. The accused also abused her in filthy language. Several times mediations were held. She also lived three months in the house of her parents when the accused drove her out of the house. The case was registered in Cr.No.87/1999 and during the course of investigation, the statements of the witnesses were recorded, after completion of the investigation, charge-sheet was filed. During the course of trial, on behalf of the prosecution, PWs.1 to 5 were examined and Exs.P.1 and P.2 were marked. The accused denied the evidence on record. By Judgment, dated 19-07-2006, the learned Additional Chief Metropolitan Magistrate found the accused not guilty and acquitted them.

3. Aggrieved by the same, the viceim/PW.1 filed the revision contending that the Courts below erred in taking into consideration the consistent evidence of PWs.1 to 4, that the Courts below has relied

upon the minor discrepancies and hence the acquittal cannot be sustained.

4. On behalf of the respondents/accused it is submitted that except for the family members of PW.1/the wife, not even a single eye-witness was examined since the evidence of the interested witnesses was discrepant, the Court below has rightly acquitted them and there is no merit in the revision which is liable to be dismissed.

5. Heard both sides.

6. The point that arises for consideration is as to whether the complainant could prove her case beyond reasonable doubt or whether the Judgment rendered by the trial Court suffers from any material illegality or irregularity warranting interference by the revisional Court?

7. **Point:-** The wife/PW.1 is the complainant and A.1 is her husband, whereas A.2 to A.7 are the relatives of the husband. PW.2 is the brother and PW.3 is the brother-in-law of PW.1 whereas PW.4 is said to be an independent witness.

8. The marriage of the petitioner/PW.1 and A.1 was performed on 14-05-1998 and at that time, it is alleged that substantial amount of dowry both in the shape of cash and kind was given. It is in the evidence of PW.1 that immediately after the marriage, the accused subjected the wife to harassment and cruel treatment, due to which the complaint is filed.

9. I have gone through the evidence of PWs.1 to 4 minutely. The evidence of PWs.1 to 3 is on the aspect of the wife being subjected to cruel treatment at the hands of the accused. Several instances are spoken to by them. It is also in their evidence that on several occasions, mediations were held. The family members of the wife/PW.1 were called and the family members of pw1 also used to advise the wife/PW.1 to live with the in-laws but still the accused continued to ill-treat the wife. It is also on record that on one occasion, A.1 beat her and even tried to set fire to her and she was rescued by

the neighbours. The house where the accused No.1 and PW.1 lived together was surrounded by several houses. Not even a single neighbouring resident has been examined either during the course of investigation or trial. Except for the interested testimony of PWs.1 to 4 who are the family members of PW.1, absolutely no evidence, whatsoever, has been produced by the prosecution. Even the material aspects which are spoken to by PW.1 were not spoken to by her during course of her initial statement recorded by PW.5 under Section 161 Cr.P.C. The Investigating Officer – PW.5 admits that all the material aspects which are now spoken to by PW.1 were not informed to her. That apart, it is a specific case of PW.1 that on one occasion, after having beat PW.1, the accused have bolted the door from outside and on raising hue and cry, neighbours came there and police also came and it is the police people who rescued her. This material aspect is not spoken to by either by the neighbouring residents or even the police officers. Absolutely no evidence is produced by the prosecution to say that the major instances of quarrelling, beating, bolting the door from outside, trying to set fire to PW.1 took place and on several occasions neighbours and on one occasion police also saved her. In the absence of any independent evidence, in view of the nature of the allegations contained, the learned trial Court had no option except to hold that the prosecution could not prove its case against the accused beyond reasonable doubt. Therefore, the respondents/accused were acquitted. By the reappraisal of the evidence on record, I find that the Judgment impugned do not suffer from any irregularity or illegality warranting interference. The evidence on record is far from satisfactory for holding that it is the accused who have subjected the wife/PW.1 to cruelty so as to hold them guilty of the offence punishable under Section 498-A I.P.C. They are, therefore, entitled to benefit of doubt. The Judgment of the trial Court does not suffer from any material irregularity or illegality warranting interference by the revisional Court. The point is answered accordingly.

10. In the result, the Criminal Revision Case is dismissed.
Miscellaneous petitions, if any, pending in this Criminal Revision Case
shall stand closed.

M.S.K.Jaiswal, J

30th June, 2015
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