

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

Crl.R.C.No. 679 of 2007

JUDGMENT:

The revision case is filed against judgment, dt.17.5.2007 in Criminal Appeal No.53 of 2006 on the file of the Special Judge for SC & ST (POA) Act – cum- VI Additional District & Sessions Judge, Kurnool.

2. The petitioner/accused was tried in C.C.No.273 of 2001 on the file of the Judicial First Class Magistrate, Nandikotkur for the offences punishable under Sections 498-A, 324 IPC and Section 4 of Dowry Prohibition Act. By judgment dated 04.04.2006, the learned Magistrate has found the petitioner/accused guilty and convicted him for the offences under Section 498-A and 324 of IPC and sentenced to undergo rigorous imprisonment for one year and pay a fine of Rs.5,000/-, in default simple imprisonment for one month for the offence punishable under Section 498-A IPC; and also sentenced to undergo rigorous imprisonment for six months, and pay fine of Rs.1,000/-, in default simple imprisonment for fifteen days for the offence under Section 324 IPC. However, the petitioner was not found guilty and acquitted for the offence under Section 4 of Dowry Prohibition Act. Aggrieved by the same, the petitioner preferred appeal in Crl.A.No.53 of 2006 before the VI Additional District & Sessions Judge, Kurnool. By its judgment dt. 17.05.2007, the appellate Court dismissed the appeal and confirmed the conviction and sentence as imposed by the trial Magistrate. Aggrieved by the same, the present revision case is filed.

3. It is the contention of the petitioner/accused that there is no independent corroboration to the evidence of the alleged victim-wife PW.1, and her parents PWs.2 and 3, and the other witness PW.4, who is their relative. Therefore, there is absolutely no evidence to corroborate that who subjected the victim PW-1 to harassment by demanding dowry. It is further submitted that according to the complaint averments, the

petitioner allegedly demanded an amount of Rs.25,000/- to be kept in the name of new born female child. Except that there is no allegation of demanding for any amount. The learned counsel further submits that the wife of the petitioner (PW-1) has filed MC.No.16 of 2002 on the file of Family Court, Kurnool, and every month the petitioner/accused paying an amount of Rs.5,000/- to the wife and child, and the female child, having born in 1996, has become major. The learned counsel submits that in the absence of any corroborative evidence to prove the allegations of cruel treatment to the wife and demand for dowry, the conviction cannot be sustained. Hence, the revision case.

3. Heard the learned counsel for the petitioner/accused, learned Public Prosecutor, and considered the material available on record.

4. The admitted facts are that the accused and the *de facto* complainant were married in 1995 and blessed with a female child in 1996. For delivery, PW-1 went to her parents' house, and three months thereafter the petitioner/accused went there. There it is alleged that the petitioner demanded the father of PW-1 to deposit a sum of Rs.25,000/- in the name of the child, which would help her at the time of her marriage. It is also on record that in 1997 disputes arose between the couple, and several mediations were held. It is also on record that the panchayats were convened by the elders and the petitioner/accused was be chastised by the elders to take proper care of the child and the mother. However, keeping aside the assurance given, the petitioner/ accused again started subjecting PW-1 to cruelty. Thereafter in 2000 again the disputes started between the petitioner and his wife, and therefore, the wife filed a complaint with the police, where also certain mediations in the presence of the police were taken place, and the petitioner/accused promised the elders to take care of his wife. However, there was no change in the attitude of the petitioner and the petitioner alleged to have beat PW-1 on 24.09.2001 and driven her out. Thereafter, PW-1 started living with her parents.

5. The contention of the petitioner/accused is that all the allegations about the demand of money and the cruelty are incorrect. It is his contention that PW-1 was insisting that the petitioner/accused should get himself transferred to Kurnool and start living with her at her parents' house, but the petitioner/accused, who was having his mother, aged about 80 years, was not prepared to accede to the request of his wife, and therefore PW-1 herself left the house and is living with her parents. Even though notices were got issued, PW-1 did not come forward to live with the accused.

6. The victim-wife has examined herself as PW-1. She has given minute details how she was harassed by the petitioner/accused. Her specific case is that on 24.09.2001, the petitioner beat her and driven her out and on the same day she lodged the complaint with the police. PWs.2 and 3, the parents of the victim/PW-1, supported and corroborated the version of PW-1 in all material aspects. PW-5 is the Medical Officer, who treated the victim and noticed as many as six injuries, which are simple in nature, and issued Ex.P.4, wound certificate. PW-4 is the independent witness, who deposed that he acted as an elder for settling the disputes amicably, but in spite of his efforts, the petitioner/accused was not treating PW-1 properly. Before him, it is PW-1, who informed that the petitioner/accused demanded a sum of Rs.25,000/- to be kept in fixed deposit in the name of the child, and when that was not being fulfilled, the petitioner subjected PW-1 to cruelty. PW-6 is the Investigating Officer, who admits that the crucial documents, namely Exs.P.1 and P.2, which are said to be the letters purported to have been addressed by PW-1 to her parents when she was living in her matrimonial home, were not produced at the time of lodging the complaint or recording her statement. Exs.P.1 and P.2 are the Inland letters, which are said to have been written by PW-1 to her parents, wherein the same allegations are contained.

7. Though PWs.1 to 3 are close relatives and are one family, but

still their evidence appears to be consistent and convincing, to prove the aspect that the petitioner/accused demanded certain amounts to be kept in the name of the minor child, and on 24.09.2001 beat the PW-1/wife and caused simple injuries. The evidence of the prosecution witnesses is convincing. Though the prosecution witnesses were cross-examined at length, nothing adverse has been elicited to discard their evidence. Hence, both the Courts below have properly appreciated the evidence of prosecution and found the accused guilty of the charges under Section 498A and 324 IPC.

8. The learned counsel for the petitioner submits that the petitioner is working as a Librarian in a Government School and he has been regularly obeying the orders of the Court and every month remitting a sum of Rs.5,000/- to both his daughter and wife for their maintenance. Therefore, the learned counsel for the petitioner submits that a lenient view may be taken in imposing the sentence on the petitioner.

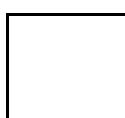
9. Taking into consideration all the above mentioned material facts, and also the fact that the petitioner/accused and the victim are husband and wife, having married in 1995 and lived together till 2000, I feel the ends of justice would be met if the sentence of imprisonment is modified to the extent of period already undergone by the petitioner/ accused, by enhancing the fine amount imposed.

10. In the result, the criminal revision case is dismissed, confirming the conviction of the petitioner/accused for the offences punishable under Sections 498-A and 324 IPC. However, the sentence of imprisonment imposed on the petitioner/accused is modified and reduced to the extent of the period already undergone by him. In addition to the above, the petitioner/accused is directed to pay a fine of Rs.10,000/- for the offence under Section 498-A IPC, and also a fine of Rs.10,000/- for the offence under Section.324 IPC, in addition to the fine amount already paid by him. As and when the enhanced fine amount is paid, the entire amount of Rs.20,000/- shall be paid to the wife/PW-1 towards compensation. In

default of payment of the above fine amounts, the petitioner/accused shall undergo simple imprisonment for a period of three months. As a sequel, pending miscellaneous petitions, if any, stand closed. No costs.

M.S.K. JAISWAL, J

Date: 02.09.2015

 K_v 

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

Crl.R.C.No. 679 of 2007

JUDGMENT

-

-

-

-

02.09.2015

Kv