

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

CRIMINAL APPEAL No.1922 of 2004

JUDGMENT:

This appeal is filed by the State against the judgment

dt.26-12-2002 in C.C. No.409 of 2002 of the Additional Judicial Magistrate of I Class, Hyderabad East and North, Ranga Reddy District acquitting them of offence under Section 498-A IPC.

2. Heard the learned Public Prosecutor and Sri Venkatesh Deshpande, learned counsel for respondent Nos.1 to 4.

3. Sri Venkatesh Deshpande, learned counsel for respondents has placed before this Court copy of the judgment

dt.14-03-2007 in Criminal Revision Case No.1185 of 2003, by which A-1 in C.C.No.409 of 2002 was held by this Court to be not guilty of the offence under Section 498-A IPC in spite of the fact that in the judgment of the trial Court dt.26-12-2002 in C.C.No.409 of 2002 and in the judgment dt.14-08-2003 in CrI. Appeal No.216 of 2002 passed by the V Additional Sessions Judge, Fast Track Court, Ranga Reddy District at L.B. Nagar, he was

convicted of the offence under Section 498-A IPC.

4. The learned Public Prosecutor does not dispute this fact.

5. In the above judgment in Criminal Revision Case No.1185 of 2003, this Court took note of the fact that in O.P.No.105 of 2001 filed by A-1 against the defacto-complainant seeking dissolution of marriage between them on the ground of desertion, there is a finding recorded by the I Additional Senior Civil Judge, Ranga Reddy District in judgment dt.19-04-2004 that since 19-4-2004, the defacto-complainant, without any reason, had abandoned the company of petitioner (A-1) for a period of 2 years immediately preceding the presentation of O.P. and therefore, petitioner (A-1) is entitled for divorce. This Court held that the judgment in O.P.No.105 of 2001 having attained finality, the question of demanding additional dowry by A-1 of Rs.5 Lakhs as alleged, would not arise. This Court therefore had taken a view that it is unsafe to place implicit reliance on the evidence of P.W.4 with regard to A-1 demanding additional dowry on 04-12-1999.

6. This Court had also held that P.Ws.5 and 7 had only made omnibus accusation against the respondents herein, who were A-2 to A-5 and that the trial

Court having acquitted them, it should have extended the same benefit to A-1 also. It further observed that in view of subsequent events which took place after the conviction was confirmed by the appellate Court i.e., the order dt.19-04-1999 in O.P.No.105 of 2001 (where a finding was given to the effect that it was the defacto-complainant, who actually deserted A-1 for a continuous period of 2 years), the question of demand of additional dowry does not arise and her statement cannot be accepted.

7. Since this appeal is filed against A-2 to A-5, and the basis of the case of prosecution against these accused is also the same as that against A-1, the reasoning of this Court in Criminal Revision Case No.1185 of 2003 would automatically apply as far as this appeal is concerned. For the same reasons, this appeal is dismissed confirming the acquittal of respondents by the Court below.

8. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 25-02-2015

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