

HON'BLE SMT. JUSTICE ANIS
CRIMINAL REVISION CASE No. 167 OF 2008

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ORDER:

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This Criminal Revision Case under Sections 397 and 401 of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C') is filed by the revision petitioner/*de facto* complainant challenging the judgment dated 17.08.2006, passed by the learned Judicial Magistrate of I Class, Yemmiganur, in C.C.No.56 of 2004, whereunder and whereby the accused/A.1 to A.4 are found not guilty for the offences punishable under Section 498-A of the Indian Penal Code, 1860 (for short 'IPC') and under Sections 3 and 4 of the Dowry Prohibition Act, 1961 (for short 'D.P.Act') and accordingly they are acquitted.

2. The revision petitioner herein is the *de facto* complainant, respondents 3 to 6 are the accused and respondent No.2 is the complainant in C.C.No.56 of 2004 before the trial Court. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the C.C. before the trial Court.

3. The case of the prosecution in brief is that the marriage between the *de facto* complainant (PW1) and A.1 was performed in the year 1997. At the time of marriage, the family of the *de facto* complainant gave Rs.50,000/- as dowry in the presence of elders. After marriage, the *de facto* complainant lived with A.1 for 8 months at Gudekal village and blessed with a male child in the year 1998. Thereafter, all the accused started harassing the *de facto* complainant physically and mentally, beat her and demanded her to get more dowry from her parents. On each time of their visit, the brothers and sisters of the *de facto* complainant used to give some amount to her, thus they paid additional dowry of Rs.25,000/- to A.1. Subsequently, A.1 shifted his family from Gudekal to Yemmiganur as he was running

Sri Vani Vidyanikethan School in S.M.T. Colony, Yemmiganur. Thereafter also, the parents and brothers of the *de facto* complainant used to help her by giving money. Before marriage, A.1 stated that he studied B.Com., M.A., B.Ed., but he studied only B.Com. The brother and mother of the *de facto* complainant used to come to the house of the accused and requested them to allow the *de facto* complainant to lead her life with A.1 without any trouble. Further, the parents and brothers of the *de facto* complainant helped her financially. In spite of it, the accused subjected the *de facto* complainant to harassment physically and mentally even during the time of second pregnancy. A.1 demanded the *de facto* complainant to get more dowry of Rs.30,000/- saying that his school was registered by the Government of A.P. and he also wrote letters to PW2 – the brother of the *de facto* complainant to send money. On 02.02.2002, A.1 wrote a letter to PW2 threatening that he will marry another lady. Many mediations were taken place before the elders, but accused 1 to 4 did not change their mind and harassed the *de facto* complainant. The elder sister of the *de facto* complainant (PW3) witnessed the said harassment. The *de facto* complainant gave a complaint to the police, which was registered as a case in Crime No.107 of 2003 for the offences punishable under Section 498-A IPC and under Sections 3 and 4 of D.P. Act. After completion of investigation, the S.I. of Police, Yemmiganur Town P.S. filed the Charge sheet into the Court.

4. The learned Magistrate took cognizance of the case and framed charges for the offences punishable under Section 498-A IPC and under Sections 3 and 4 of D.P. Act against all the accused. During trial, on behalf of the complainant, PWs 1 to 7 were examined and Exs.P.1 to P.6 got marked.

5. After closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C putting all incriminating material

available against them. They denied the material evidence and adduced no oral evidence, but Exs.D.1 to D.7 got marked.

6. After considering the evidence of PWs 1 to 7 and Exs.P.1 to P.6 and D.1 to D.7, the trial Court came to a conclusion that the evidence of PWs 1 and 2 is interested and there are contradictions and inconsistencies in their evidence; PWs 3 and 4 turned hostile; the evidence of PWs 5 and 6 is not reliable and not clinchingly pointing to the payment of dowry or demand of dowry and there is no substantial evidence worth consideration, and therefore, acquitted all the accused for the offences charged.

7. Being aggrieved by the judgment of the trial Court passed in C.C.No.56 of 2004, the *de facto* complainant preferred the present revision case.

8. The learned counsel appearing for the revision petitioner/*de facto* complainant argued that the trial Court failed to appreciate the evidence of PWs 1, 2, 6 and 7 properly; that the trial Court failed to appreciate the evidence of PW5 regarding the harassment and cruelty of A.1; that the trial Court has not considered the documents Exs.P.2 and P.3 i.e. Certified Copies of Letters dated 07.04.1998 and 02.02.2002; that basing on presumptions and assumptions, the trial Court passed the acquittal order; that there is no dispute about the marriage and relationship of the *de facto* complainant with A.1; that the evidence of mediator – PW6 clearly proves the demand of dowry by A.1, and therefore, prayed the Court to set aside the judgment dated 17.09.2006 passed in C.C.No.56 of 2004.

9. On the other hand, no arguments are advanced by the respondents/accused.

10. Now, the point for determination is --

Whether the revision petitioner/*de facto* complainant is entitled to set aside the judgment passed by the trial Court for acquitting the accused under Sections 498-A IPC and under Sections 3 and 4 of D.P. Act?

11. **POINT:**

As per the oral and documentary evidence produced by the parties, there is no dispute that the marriage of A.1 was performed with the *de facto* complainant in the year 1997 and they were blessed with a male child in the year 1998. According to the *de facto* complainant, at the time of marriage her parents gave Rs.50,000/- as dowry to A.1 and thereafter, accused started harassment physically and mentally and demanded more dowry from her parents. The *de facto* complainant was examined as PW1 and her brother was examined as PW2.

12. The specific case of the *de facto* complainant is that A.1 used to write letters to PW2 demanding additional dowry amount and copies of the letters were marked as Exs.P.2 and P.3. PW3 is an independent witness and she did not support the case of prosecution though she is the alleged neighbour of A.1. PW4 is another independent witness and elder who attended the marriage of A.1 and the *de facto* complainant, but he specifically has not stated about payment of dowry to the accused by the family of the *de facto* complainant. The trial Court, after considering the evidence of PW4, held that PW4 stays in his house for little time and is engaged for most of the time in his office for running A.N.L. Parcel Office in APSRTC bus stand, Yemmiganur and he is unable to give the details about the dispute between the *de facto* complainant and A.1, as such the trial Court rightly held that the evidence of PW4 is not helpful to prove the case of prosecution. The other witness for the prosecution is PW6. According to PW6, he is the resident of Nagaladinne village

and he acted as an elder to the marriage of A.1 and the *de facto* complainant. PW6 stated that the family of the *de facto* complainant paid Rs.25,000/- as additional dowry, but in the cross-examination he stated that he came to know about the harassment made by the accused to the *de facto* complainant from PW2 and LW3 (mother of the *de facto* complainant), as such the evidence of PW6 regarding witnessing the harassment and payment of dowry, is hearsay in nature. The other evidence produced by the prosecution is PW7 Investigating Officer, who completed the investigation and filed Charge sheet into the Court.

13. Admittedly, the evidence of PW1 and PW2 is interested as they are sister and brother and their evidence is not supported by the independent witnesses PW3 and PW4. Further, the evidence of PW6 is hearsay in nature. Moreover, Exs.P.2 and P.3 are the copies of letters dated 07.04.1998 and 02.02.2002 alleged to have been written by A.1 to PW2 demanding additional dowry, but the said letters are not proved by the prosecution by comparing the same with the original handwriting of A.1. The trial Court, after elaborately discussing the evidence of all the witnesses, gave a finding that the prosecution failed to establish the offence punishable under Section 498-A IPC and under Sections 3 and 4 of D.P. Act. Therefore, the trial Court rightly acquitted the accused

1 to 4 for the charges framed and the findings of the trial Court need no interference of this Court as the revision petitioner has not made out any case.

14. Accordingly, the Criminal Revision Case is dismissed, confirming the judgment dated 17.08.2006, passed in C.C.No.56 of 2004 on the file of the Judicial Magistrate of I Class, Yemmiganur.

15. Miscellaneous petitions pending, if any, in this Criminal

Revision Case shall stand closed.

ANIS, J

Date: 23.02.2015

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