

HON'BLE SMT. JUSTICE ANIS

CRIMINAL REVISION CASE No. 1234 OF 2007

O R D E R:

-

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 herein challenging the judgment dated 16.10.2006, passed by the II Additional Sessions Judge at Warangal, in Criminal Appeal No.118 of 2005, whereunder and whereby the sentence passed against the revision petitioner herein for the offences punishable under Sections 498-A and 306 of the Indian Penal Code, 1860 (for short 'IPC'), vide judgment dated 27.10.2005 in S.C.No.269 of 2005 by the Assistant Sessions Judge at Jangaon, was confirmed.

2. The revision petitioner herein is the accused and respondent herein is the complainant in S.C.No.269 of 2005 before the trial Court. For the sake of convenience, the parties hereinafter will be referred to as they are arrayed in the S.C. before the trial Court.

3. The case of the prosecution in brief is that the revision petitioner/accused is the husband of the deceased, G. Amrutha, and their marriage was taken place about seven years back prior to her death. During her stay at the marital house, the accused started subjecting the deceased to harassment and to ill treatment with a demand to perform him the second marriage with her sister, namely Bandi Sumathi, during her lifetime.

On 20.08.2003 in the morning hours, the accused threatened his wife to perform him the second marriage with her sister, otherwise he would commit suicide by consuming pesticide poison or he would pour the pesticide poison either to her or to her sister. Unable to bear such acts of the accused, the deceased committed suicide by consuming the pesticide poison and ended her life. According to the prosecution, the deceased died as the accused abetted her to commit suicide. On

the complaint given by the father of the deceased, a case in Crime No.55 of 2003 was registered for the offences punishable under Section 498-A and 306 IPC. The Investigating Officer conducted inquest, recorded the statements of all the witnesses, received the reports from the hospital and Forensic Science Laboratory and after completing the investigation, filed charge sheet into the Court.

4 . The learned trial Judge framed charges for the offences punishable under Sections 498-A and 306 IPC against the accused. During trial, on behalf of the prosecution, PWs.1 to 10 were examined and Exs.P.1 to P.8 were marked.

5. After closure of the prosecution evidence, the accused was examined under Section 313 Cr.P.C. putting all incriminating material available against him. He denied the material evidence and reported no oral or documentary evidence on his behalf.

6. The trial Court, after hearing the arguments and after perusing the record, convicted the accused and sentenced him to undergo Simple Imprisonment for a period of five years and to pay a fine of Rs.1,000/-, for the offence punishable under Section 306 I.P.C., and sentenced him to undergo Simple Imprisonment for a period of three years and to pay a fine of Rs.1,000/- for the offence punishable under Section 498-A IPC and in default of payment of fine, to suffer Simple Imprisonment for three months.

7. Aggrieved by the sentence and conviction of the trial Court, the accused preferred Criminal Appeal No.118 of 2005 before the II Additional Sessions Judge at Warangal. The Appellate Court, after considering the oral and documentary evidence on record, held that the prosecution proved the ingredients of Sections 498-A and 306 IPC and the trial Court gave valid reasons and rightly appreciated the evidence

available on record and dismissed the appeal by confirming the judgment of the trial Court.

8. Being aggrieved by the judgment of the Appellate Court passed in Criminal Appeal No.118 of 2005, the accused preferred the present revision case.

9. The learned counsel appearing for the revision petitioner/accused argued that the accused has not abetted the deceased to commit suicide. On the other hand, the deceased was suffering with ill health and stomach pain and the accused is not responsible for the death of the deceased. Further, it is argued that the evidence of PWs.1 to 3 cannot be considered, as they are not the eye witnesses to the prosecution case and there are contradictions and omissions in the evidence of PW.3. It is also argued that the independent witnesses examined by the prosecution turned hostile and, therefore, the ingredients of Sections 498-A and 306 IPC are not proved against the accused and as such the findings of the Appellate Court and the trial Court are liable to be set aside. It is also argued that the prosecution failed to examine the Doctor, who conducted the Post Mortem on the dead body of the deceased, and further inquest panchanama was conducted by PW.9, the Mandal Revenue Officer, and finally prayed the Court to set aside the sentence and conviction passed by both the Courts.

10. On the other hand, the learned Public Prosecutor for the State of Andhra Pradesh argued that PWs.1 and 2 are the parents of the deceased and PW.3 is the sister of the deceased, who clearly stated about the harassment of the accused to the deceased during her lifetime and as such the deceased committed suicide; the evidence of PW.3 is very specific that the accused wanted to marry her and in that regard, he threatened the deceased to perform his second marriage with PW.3, otherwise he would end his life and brought poison to

threaten the deceased and further, after considering the evidence of PWs.1 to 10, the trial Court as well as the Appellate Court rightly convicted the accused for the offences punishable under Sections 498-A and 306 IPC and the findings of both the Courts need no interference and prayed to dismiss the revision case.

11. Now, the point for determination is:

Whether the prosecution could bring home the guilt of the petitioner for the offences punishable under Sections 498-A and 306 IPC?

12. **POINT:**

PW.1 is the father, who gave a complaint to the Police about the death of his daughter. PW.2 is the wife of PW.1. Both the witnesses stated that the accused subjected his wife to harassment and ill treatment and also specifically stated that the accused insisted the deceased to perform his second marriage with PW.3 during the lifetime of his deceased daughter.

13. The evidence of PW.1 is corroborated by the evidence of PW.3, who clearly stated that on 19.08.2003, she was at her parents' house at Nellikuduru. At that time, the accused came and asked her parents to send PW.3 to his house to help his wife under the pretext that he is going to Warangal on his personal work. PW.3 also stated that her parents permitted her to go to the house of the accused and accordingly she went to the house of her sister and on that night, the accused insisted PW.3 to marry him and thereafter he repeatedly insisted PW.3 to marry her and to become second wife to him. PW.3 also stated that the accused threatened her that if she is not going to marry him,

he would kill her sister by holding a container having pesticide poison.

She also stated that he also asked the deceased to give advice to PW.3 to marry him, otherwise he would kill her. Thereupon, PW.3

returned to her parents house due to fear and intimidated the same to her parents. On the same day in the evening, she came to know about the death of her sister.

14. If the evidence of PW.3 is perused, it is consistent and coherent and she clearly stated about the harassment of the accused to his wife. Though none of the witnesses have stated that there was physical harassment by the accused, but the evidence of PWs.1 to 3 is corroborated with each other regarding the mental harassment of the accused to perform the second marriage with PW.3.

15. The evidence of other witnesses is formal in nature.

16. PW.9, the Mandal Revenue Officer, conducted inquest over the dead body of the deceased in the presence of panch witnesses.

17. PW.10 is the Investigating Officer, who recorded the statements of all the witnesses, received inquest, post mortem and Forensic Science Laboratory reports and filed the charge sheet into the Court. Though PWs.1 to 3 are related to each other and belong to one family, except PWs.1 to 3, there are no other persons to speak about the harassment.

18. PW.7 is an independent witness from the place of the accused, who naturally turned hostile and not supported the case of the prosecution.

19. Thus, from the evidence of PWs.1 to 6 and 8 to 10, the prosecution is able to prove that the accused during the lifetime of his wife abetted her and treated her cruelly by his willful conduct and as a result she committed suicide. Therefore, both the Courts correctly opined that the accused committed the offences punishable under Section 498-A and 306 IPC and rightly sentenced him to undergo

imprisonment and the findings of both the Courts are based on evidence and need no interference.

20. Accordingly, the Criminal Revision Case is dismissed, confirming the judgment dated 16.10.2006, passed in Criminal Appeal No.118 of 2005 on the file of the II Additional Sessions Judge at Warangal.

Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

ANIS, J

Date: 13.02.2015

KH