

HON'BLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No.395 OF 2008

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 07.12.2007, passed by the Sessions Judge, Karimnagar, in Criminal Appeal No.70 of 2006, whereunder and whereby the conviction passed against the revision petitioner herein for the offence punishable under Section 498-A of the Indian Penal Code, 1860 (for short, 'I.P.C') vide the judgment dated 12.04.2006 in C.C.No.1069 of 2003 by the Additional Judicial Magistrate of First Class, Karimnagar, was confirmed while the sentence was modified.

2. The revision petitioner herein is the accused, whereas respondent is the complainant in C.C.No.1069 of 2003 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 brief case of prosecution is that the marriage of *de facto* complainant/PW.1 was performed with the accused about five years prior to the date of incident. After the marriage, they lived happily for about one year. Thereafter, at the instigation of his parents, sister and brother-in-law, the accused started harassing PW.1 physically and mentally and demanding additional dowry. In that connection, PW.1 lodged a complaint to the police, Ramadugu Police Station. The accused in the presence of elders executed a document promising to look-after her well in future and thereafter, she joined the society of the accused and lived happily for some time. But, again, accused started harassment and he used to come to the house in a drunken condition and demand additional dowry of Rs.25,000/- He also threatened to kill her, if she failed to fulfil his demands. The *de facto* complainant is

living by rolling beedies at her mother's house. The accused also threatened that he will marry another girl and his brother-in-law also supported his version. After receiving the complaint, the police registered the case in Cr.No.277 of 2003 for the offences punishable under Section 498-A I.P.C and Section 4 of the Dowry Prohibition Act, 1961, (for short 'the Act') and handed over the First Information Report to PW.6. PW.6 took up further investigation, and after recording statements of all the witnesses and after completing the investigation, she filed the charge sheet before the Court.

4. Before the trial Court, the learned Additional Judicial Magistrate of First Class, Karimnagar, took cognizance of the case and framed charges for the offences punishable under Section 498-A I.P.C and Section 4 of the Act against the accused. During trial, on behalf of prosecution, PWs.1 to 6 were examined and Exs.P1 to P5 were got marked.

5. After closure of the prosecution evidence, accused was examined under Section 313 Cr.P.C, putting the incriminatory material deposed against him. The Accused denied the same and reported no oral or documentary evidence on his behalf. After hearing the arguments and after perusing the record, the learned Magistrate convicted the accused for the offence punishable under Section 498-A I.P.C and sentenced him to undergo Rigorous Imprisonment for a period of two years and also to pay a fine of Rs.5,000/- and in default of payment, to undergo Simple imprisonment for a period of three months. Further, the learned Magistrate acquitted the accused holding that the *de facto* complainant has not filed any documentary evidence regarding the dowry and other Zahej articles, which were given by her parents at the time of marriage, and therefore the ingredients of the offence punishable under Section 4 of the Act are not made out by the *de facto* complainant.

8. Aggrieved by the conviction and sentence passed by the trial Court, accused preferred Criminal Appeal No.70 of 2006 before the Sessions Judge, Karimnagar, where the Appellate Court after considering the oral and documentary evidence, after hearing both sides and after perusing the findings of the trial Court, held that since 1998 till the date of Ex.P1, the *de facto* complainant was repeatedly harassed by the accused for additional dowry and partly allowed the appeal by confirming the conviction, but reducing the sentence from two years to one year.

7. Being aggrieved by the finding of the Appellate Court passed in Criminal Appeal No.70 of 2006, accused preferred the present revision case.

8. The learned counsel appearing for the revision petitioner/ accused argued that both the Courts below gave a categorical finding that the *de facto* complainant able to prove about the additional dowry demanded by the accused; that Exs.P2 & P3 are the documents executed before the police by the accused and the same are not maintainable; that the evidence produced by the prosecution is interested evidence and there are no independent witnesses as PW.3 turned hostile and PWs.4 & 5 deposed that they have no knowledge regarding the harassment made by the accused, and finally prayed the Court to reduce the sentence.

11. On the other hand, the learned Public Prosecutor appearing for the State of Telangana argued that both the Courts below held that accused harassed the *de facto* complainant and therefore, is guilty of the offence punishable under Section 498-A I.P.C and therefore, the concurrent findings of both the Courts needs no interference.

10. Now, the point for determination is --

Whether the revision petitioner herein is entitled to set aside the conviction and sentence passed by both the

Courts below for the offence punishable under Section 498-A I.P.C, as prayed for or not?

11. **P O I N T**: As per the evidence on record, there is no dispute that the marriage between the accused and the *de facto* complainant was performed on 23.08.1998. They lived happily for about six months and later, disputes started. PW.1 in her evidence stated that the accused harassed her at the instigation of his mother, brother and sister, and that they have demanded for additional dowry of Rs.50,000/-. PW.1 also stated that once, the accused poured kerosene on her, for which a complaint was lodged. But, due to the intervention of elders, the said case was closed. PW.2 is the brother of PW.1 and his evidence also clearly shows as to how the accused harassed the *de facto* complainant. The evidence of PWs.1 & 2 is consistent though the evidence of PW.3 is not helpful to the prosecution, as he turned hostile. The other witnesses are PWs.4 & 5, who acted as elders to solve the dispute between the parties. They also supported the prosecution case. The perusal of the evidence of PWs.1 & 2 clearly shows that the accused harassed the *de facto* complainant for additional dowry. PW.1 in her evidence clearly stated that in spite of the elders' interference, the accused repeatedly harassed her. Though, the charge under Section 4 of the Act was not proved as the *de facto* complainant failed to produce any document, the fact remains that the accused harassed the *de facto* complainant. The trial Court as well as the appellate Court categorically gave a finding that the accused harassed the *de facto* complainant and convicted the accused for the offence punishable under Section 498-A I.P.C. Though the trial Court sentenced the accused to undergo the imprisonment for two years, the appellate Court after considering the evidence, taken a lenient view and reduced the sentence from two years to one year by confirming the conviction. Further, the accused though pleaded innocent, has not made out any case to interfere with the findings of both the courts below. The evidence of the witnesses produced by the prosecution is

consistent, cogent and corroborated with each other. Therefore, I am of the view that the findings of both the Courts below regarding the conviction, needs no interference.

12. As far as the quantum of compensation is concerned, the learned counsel for the revision petitioner contended that the accused has already suffered imprisonment in this case and he is having old aged parents and he is the sole bread winner of his family and prayed the Court to take a lenient view by reducing the sentence. Taking into consideration the facts and circumstances of the case, I am of the view that a lenient view shall be taken in favour of the accused by reducing the sentence of imprisonment to six months from one year. Therefore, I am inclined to dispose of the revision as under.

13. The conviction recorded against the revision petitioner/accused by the Additional Judicial Magistrate of First Class, Karimnagar, in C.C.No.1069 of 2003 for the offence punishable under Section 498-A I.P.C as confirmed by the Sessions Judge, Karimnagar in CrI.A.No.70 of 2006 is hereby confirmed. But, the sentence of imprisonment of one year imposed by the Appellate Court is hereby modified and reduced to six months. The sentence of fine is not interfered with. The period of imprisonment already suffered by the revision petitioner/accused is directed to be given set off.

14. Accordingly, the Criminal Revision Case is disposed of.

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

ANIS, J

Date: 02.03.2015
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