

HON'BLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No.1205 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 petitioners herein challenging the judgment dated 30.08.2007, passed by the III Additional District & Sessions Judge, (Fast Track Court), Mahabubnagar at Gadwal, in Criminal Appeal No.89 of 2006, whereunder and whereby the conviction and sentence passed against the revision petitioners herein for the offence punishable under Section 498-A read with 34 of the Indian Penal Code, 1860, (for short 'I.P.C'), vide the judgment dated 05.07.2006 in C.C.No.198 of 2004 by the Judicial Magistrate of First Class at Alampur, Mahabubnagar District, was confirmed.

2. The revision petitioners herein are A.1 to A.4, whereas respondent is the complainant in C.C.No.198 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 brief case of prosecution is that on 17.08.2003 at 10:00 hours, *de facto* complainant-PW.1 lodged a complaint against A.1 to A.5, stating that herself and A.1 of same village loved each other and had decided to perform marriage, but his parents did not agree their decision, as such, they both went to Veerapuram village and married at Krishna Mandir on 03.04.2003 in the presence of Venkateswarlu, G. Gangadhar and Yesu. Later, they lived at Gadwal in house bearing No.7.7.17 of Chintalapeta. After one month, her mother-in-law, brother-in-law, Venkatesh and sister-in-law (A.2 to A.5) came to Gadwal and harassed her and threatened her with dire consequences by saying that they would see her end, kicked her with legs, but her husband did not try to stop them, and thereafter, he also started demanding

Rs.20,000/- as dowry. On 07.05.2003, her brother-in-law came and took away her husband to Ramapuram village, but A.1 did not return to house, as such, she along with her Aunt went to Ramapuram village and approached her husband. At that time, her mother-in-law, brother-in-law and sister-in-law threatened her, poured kerosene and tried to set fire on her, but she escaped with the help of neighbours. On the same day night, they sent her husband to an unknown place. On 16.08.2003 morning, when her husband returned to Ramapuram village, she and her father asked her husband to live with her but he did not agree and further demanded Rs.20,000/- as dowry. Basing on the complaint, the Sub-Inspector of Police registered the case as in Cr.No.46 of 2004 for the offence punishable under Section 498-A I.P.C. During the course of investigation, the Investigating Officer visited Ramapuram village and recorded the statements of witnesses, and on 20.10.2004 he arrested A.1 to A.5 and produced before the Court, and after completing the investigation, filed the charge sheet into the Court.

4. The learned Judicial Magistrate of First Class, Alampur, took cognizance of the offence and framed a charge for the offence punishable under Section 498-A read with 34 I.P.C against the accused. During trial, on behalf of prosecution, PWs.1 to 7 were examined and Exs.P1 to P6 were got marked.

5. After closure of the prosecution evidence, accused (A.1 to A.5) were examined under Section 313 Cr.P.C, putting the incriminatory material deposed against them. The accused denied the same and reported no oral or documentary evidence on their behalf. After hearing the arguments and after perusing the record, the learned Magistrate convicted A.1 to A.4 for the offence punishable under Section 498-A read with 34 I.P.C and sentenced each of them to undergo Simple Imprisonment for a period of one year and to pay a fine of Rs.500/- and in default of payment to undergo Simple Imprisonment

for three months. Further, the learned Magistrate acquitted A.5 for the offence punishable under Section 498-A I.P.C.

6. Aggrieved by the conviction and sentence passed by the trial Court, A.1 to A.4 preferred Criminal Appeal No.89 of 2006 before the III Additional District & Sessions Judge, (Fast Track Court), Mahabubnagar at Gadval, where the appellate Court after considering the oral and documentary evidence, after hearing both sides and after perusing the findings of the trial Court, dismissed the appeal by confirming the conviction and sentence passed by the trial Court.

7. Being aggrieved by the concurrent finding of both the Courts below, passed in Criminal Appeal No.89 of 2006 and C.C.No.198 of 2004, A.1 to A.4 preferred the present revision case.

8. The learned counsel appearing for the revision petitioners/ A.1 to A.4 argued that PW.1 is a Christian and A.1 is a Hindu by religion, and there is no valid marriage between them; that the prosecution by examining PWs.1 to 5, not proved the marriage alleged by the *de facto* complainant and that the accused beat her and demanded dowry of Rs.20,000/-, likewise the *de facto* complainant also has not proved that the A.1 to A.4 threatened her, poured kerosene, tried to set fire on her and she escaped with the help of neighbours; that PWs.1 to 5 are related to each other; that prosecution failed to prove that PW.1 is the legally wedded wife of A.1; that there are contradictions and omissions in the evidence of prosecution witnesses and said evidence is not sufficient to convict the accused; that the evidence of prosecution witnesses is highly interested one and PW.1 in her evidence not stated that her marriage was performed as per Hindu rights and customs; that in the absence of any valid marriage between PW.1 and A.1, the accused cannot be convicted under section 498-A read with 34 I.P.C and prayed the Court to allow the revision case.

9. On the other hand, the learned Public Prosecutor appearing for

the State of Telangana argued that by producing the evidence of PWs.1 to 6, the prosecution proved that PW.1 and A.1 are wife and husband and their marriage was performed at a temple by exchanging garlands; that the evidence of prosecution witnesses also proved that A.1 to A.4 demanded dowry of Rs.20,000/- from PW.1 and also harassed her by beating her and once poured kerosene on her and due to timely intervention of elders, PW.1 came out of the clutches of the accused; that all the witnesses clearly stated that accused harassed PW.1; that basing on the evidence on record, the trial Court as well as the appellate Court convicted A.1 to A.4 and same was confirmed by the appellate Court and findings of both the Courts needs no interference and prayed the Court to dismiss the revision case.

10. Now, the point for determination is --

Whether the revision petitioners herein are entitled to set aside the concurrent finding given by both the Courts below for the offence punishable under 498-A read with 34 I.P.C, as prayed for or not?

11. **POINT**: A perusal of the evidence on record shows that PW.1 and A.1 both went to Veerapuram village and married at Krishna Mandir on 03.04.2003 by exchanging garlands. Further, A.1 put the leg rings to PW.1. To prove the said fact, prosecution produced EXs.P2 to P5 photographs along with negatives. PWs.3 & 4 are the brother and aunt of PW.1. Their evidence is corroborated with the evidence of PW.1. Admittedly, in this case, Hindu marriage ceremonies were not taken place at the time of marriage. After the marriage, PW.1 and A.1 stayed in the house of one Gangadhar and thereafter, they lived in a separate house bearing No.7-6-17, at Chintalpet for about two months. Whiles, A.2 to A.5 came to their house at Chintalpet village, abused PW.1 in filthy language, beat her and took A.1 along with them to their village and thereafter, A.1 did not turn up. PW.1 along with her father went to the house of the accused and at that time, they demanded dowry of Rs.20,000/- and also stated if PW.1 and her father fail to

comply their demand, they will kill PW.1. When accused demanded dowry and threatened PW.1 with dire consequences, PW.5 was also present. Further, even after the incident also, A.1 not joined PW.1 and continued to live with his parents. Further, PW.4, who is the aunt of PW.1 took PW.1 to the house of the accused and questioned the accused. At that time also, accused asked PW.4 and PW.1 to arrange dowry, then only, they will permit PW.1 to live with A.1. Whiles, as A.2 to A.4 are not allowing PW.1 to live with A.1, she lodged a complaint to the police under Ex.P1 and the same was registered as First Information report under Ex.P6

12. The contention of the learned counsel for the revision petitioners/A.1 to A.4 that the marriage of PW.1 with A.1 is not proved cannot be accepted because their marriage was taken place in a temple by exchanging garlands and therefore, the question of following Hindu ceremonies does not arise under the Hindu Marriage Act, 1955. Further, PW.1 and A.1 belong to different religions. Therefore, as per the oral evidence of PWs.1, 3 & 5 and as per the documentary evidence EXs.P2 to P5, the prosecution able to prove that A.1 married PW.1 and they lived as husband and wife. It is also proved from the evidence of PWs.1, 3 & 4 that accused demanded dowry of Rs.20,000/-, and if they give that amount, then only they will allow PW.1 to join A.1. Though there is no report given by PW.1 to the police about the demand of dowry made by the accused, prosecution able to prove that A.2 poured kerosene on PW.1 and A.3, A.4 tried to detain her in the house and A.1 tried to lit fire on her. This version of PW.1 is supported by the evidence of PW.4, who is the aunt of PW.1. Though prosecution has not examined the persons by name Venkateswarlu, G. Gangadhar and Yesu, who were present and rescued PW.1 from the clutches of the accused, non-examination of those witnesses is not fatal in view of the evidence of PWs.1, 3 & 4 regarding the manner of incident, which is reliable. Further, PWs.1, 3

& 4 did not attribute any overtacts against A.5, therefore, the trial Court as well as the appellate Court rightly held that A.5 has not committed any offence punishable under Section 498-A I.P.C and acquitted him.

13. Further, the other contention of the revision petitioners that prosecution has not proved the ingredients of the offence punishable under Section 498-A I.P.C cannot be accepted, in view of the evidence of PWs.1 to 4, who categorically stated that A.1 to A.4 demanded dowry and not allowed PW.1 to live with A.1. The said conduct of A.1 to A.4, no doubt, amounts to harassment of the *de facto* complainant and cruelty. Therefore, the prosecution able to prove that A.1 to A.4 committed the offence punishable under Section 498-A I.P.C and rightly convicted the accused and therefore, the findings of the appellate Court in Criminal Appeal No.89 of 2006 and the trial Court in C.C.No.198 of 2004 needs no interference of this Court.

14. Regarding the quantum of sentence, the learned counsel for the revision petitioners/A.1 to A.4 requested that a lenient view may be taken as the revision petitioners/A.1 to A.4 are suffering with this case since last eight years and A.2 & A.3 are old persons. Thus, 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 revision petitioners/A.1 to A.4 by reducing the sentence of imprisonment to six months from one year. Therefore, I am inclined to dispose of the revision as under.

15. The conviction recorded against the revision petitioners/A.1 to A.4 by the Judicial Magistrate of First Class at Alampur, Mahabubnagar District, in C.C.No.198 of 2004 for the offence punishable under Section 498-A read with 34 I.P.C as confirmed by the III Additional District & Sessions Judge, (Fast Track Court), Mahabubnagaram at Gadwal, in Crl.A.No.89 of 2006 is hereby confirmed. But, the sentence of imprisonment of one year imposed by

the trial Court below 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 petitioners/A.1 to A.4 is directed to be given set off.

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

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

ANIS, J

Date: 17.03.2015

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