

HON'BLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No.771 OF 2008

ORDER:

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 03-04-2008 passed by the I Additional District & Sessions Judge, at Mahabubnagar in Criminal Appeal No. 104 of 2007 whereunder and whereby the conviction and sentence passed against the revision petitioner herein for the offence punishable under Section 498-A IPC of the Indian Penal Code (for short, 'I.P.C') vide the judgment dated 12-07-2007 in C.C.No.334 of 2002 by the Judicial Magistrate of First Class, Kalwakurthy was confirmed.

2. The revision petitioner herein is A-1, whereas respondent is the State in C.C.No.334 of 2002 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 facts of the case are that the *de facto* complainant is the wife of A-1 and A-2 and A-3 are his brothers. The marriage of the *de facto* complainant with A-1 was performed in the year 1998 as per their custom and usage by giving dowry of Rs.20,000/- besides gold and silver ornaments. After the marriage, they lead marital life happily for about two months and thereafter, A-1 started harassing the wife for additional dowry of Rs.10,000/-. Due to poverty, his demand could not be complied with by his in-laws and therefore, the *de facto* complainant was necked out from the house by the accused and she joined in the house of parents. The *de facto* complainant filed private complaint alleging that her parents and relatives approached the accused requesting to take back his wife on Ugadi festival day. But the accused bluntly refused. On the other hand, they reiterated the

demand of additional dowry of Rs.10,000/- but due to poverty, the demand could not be complied with. Then

A-1 threatened that he would contact another marriage, if any complaint is filed before the police. Hence, the *de facto* complainant lodged a complaint to the police. The police registered a case in Cr.No.65 of 2002 for the offences under Section 498-A r/w 109 IPC. After completing the investigation, the police filed charge sheet into the Court.

4. The learned Judicial Magistrate of First Class, Kalwakurthy took cognizance of the case and framed charges for the offences punishable under Sections 498-A and 201 IPC against A-1 and under Sections 498-A r/w 109 of I.P.C against the A-2 and A-3. During trial, on behalf of the prosecution, PWs.1 to 4 were examined and Exs.P1 and Ex.P.2 were got marked.

5. After closure of the prosecution evidence, A-1 to A-3 were examined under Section 313 Cr.P.C putting the incriminatory material deposed against him. The Accused denied the incriminatory material and reported no oral or documentary evidence on his behalf. After hearing arguments and after perusing the record, the learned Magistrate convicted A-1 for the offence punishable under Section 498-A I.P.C and sentenced him to undergo Rigorous Imprisonment for a period of six months and also to pay a sum of Rs.500/- towards fine. In default of payment of fine amount, he shall under go simple imprisonment for further period of one month. The period of judicial detention if any undergone by A-1 shall be given set off under Section 428 Cr.P.C. Further A-2 and A-3 are acquitted under Section 248 (1) Cr.P.C. for the offences punishable under Sections 498-A r/w.109 IPC.

6. Aggrieved by the conviction and sentence passed by the trial Court, A-1 preferred Criminal Appeal No.104 of 2007 before the I

Additional District & Sessions Judge, Mahabubnagar , where the Appellate Court after hearing the arguments and considering the evidence on record, dismissed the appeal by confirming the conviction and sentence passed by the trial Court.

7. Being aggrieved by the judgment of the Appellate Court passed in Criminal Appeal No.104 of 2007, A-1 preferred the present revision case.

8. The learned counsel appearing for the revision petitioner/accused argued that there are discrepancies in the evidence of prosecution witnesses and there is no evidence on record to show that gold and silver ornaments and net cash were given to A-1 at the time of marriage. Further there is no direct evidence to prove the ingredients of Section 498-A IPC. It is also argued that the evidence of PWs.1 to 3 is not consistent. On the other hand, the *de facto* complainant voluntarily deserted the petitioner/A-1 and the petitioner never demanded any dowry. Therefore, prayed the Court to set aside the judgment passed in CrI.A.No.104 of 2007 on the file of I Additional Sessions Judge, Mahabubnagar confirming the judgment in C.C.No.334 of 2002 dated 12-07-2007 on the file of Judicial Magistrate of First Class, Kalwakurthy.

9. On the other hand learned Public Prosecutor appearing for the State argued that the accused committed the offence punishable under Section 498-A IPC and the evidence of PWs.1 to 3 is consistent and corroborated with each other. The evidence of Investigating Officer also supported the evidence of Pws 1 to 3. The evidence of PWs 1 and 2 clearly shows about the marriage performed to A-1 and giving dowry of Rs.20,000/-besides gold and silver ornaments to the Revision petitioner/A-1. Pws 1 and 2 also stated that two months after the marriage, the accused started harassing PW.1 to get additional dowry of Rs.10,000/- and also

bicycle. Thus, the prosecution is able to prove that the petitioner/A-1 subjected PW.1 his wife to cruelty and the trial Court rightly convicted the petitioner and also acquitted the other accused i.e. A-2 and A-3. Therefore, the contention of the petitioner that the prosecution has not produced the cogent evidence to prove guilty of the accused cannot be accepted as PWs.1 to 3 clearly stated regarding the offence committed by the accused. PWs 1 and 2 are *de facto* complainant and father of *de facto* complainant in their evidence clearly stated about giving dowry, gold and silver ornaments at the time of marriage to the petitioner/A-1 and his subsequent demand for additional dowry. Thus, the prosecution is able to prove the guilt of the accused for the offence punishable under Section 498-A IPC and the findings of the trial Court as well as Appellate Court needs no interference.

10. Learned counsel for the petitioner/A-1 submitted that the petitioner is young person and elder son to his parents. Further he is doing labour work and eking out his livelihood, and to take lenient view. Considering the facts and circumstances of the case, the sentence of imprisonment of six months as awarded by the trial Court in C.C.No.334 of 2002 and confirmed by the I Additional Sessions Judge, Mahabubnagar against the Revision petitioner/A-1 is reduced to three months and the fine amount is remained un-altered.

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

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

ANIS, J

12-03-2015

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