

HON'BLE SMT JUSTICE ANIS
CRIMINAL REVISION CASE No.723 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/A1 herein challenging the judgment dated 05.05.2008, passed by the Additional Sessions Judge, Warangal, in Criminal Appeal No.125 of 2005, whereunder and whereby the conviction and sentence passed against the revision petitioner herein for the offence punishable under Sections 498-A IPC and 4 of the Dowry Prohibition Act, 1961 (for short 'the Act') vide the judgment dated 30.11.2005 in C.C.No.731 of 1999 by the IV Additional Judicial Magistrate of 1st Class, Warangal, was confirmed.

2. The revision petitioner herein is the accused No.1, whereas respondent is the complainant in C.C.No.731 of 1999 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 marriage of the complainant (PW1) was performed with A1 on 11.03.1992. At the time of marriage, the parents of PW1 gave net cash of Rs.85,000/- and other household articles to A1 as dowry. After the marriage, PW.1 joined the company of A1 at Parkal and lived happily for a period of one year. Thereafter, A1 along with his relatives started harassing PW.1 for additional dowry of Rs.1,00,000/-. PW.1 informed her parents about the demand made by A1, as such, there was a panchayat held and that on the advise of elders, PW.1 went to the house of A1. After some days, A1 again started harassing PW.1 for additional dowry and forced her to sign on blank paper and also instigated her to give consent for his second marriage. Even after PW.1 gave birth to a male child on 29.07.1997, A1 not visited the house of her parents. On 12.02.1999 at the instigation of A.2 to A.7, A1 married A8 in a temple at Kunkumeshwara Swamy at Parkal and since then A1 and A8 are living as

husband and wife. Therefore, PW.1 made a complaint before the Station House Officer, Hanumakonda Police Station basing on which, a case in Crime No.63 of 1999 was registered. During the course of investigation, the Investigating Officer recorded statements of the witnesses and after completing investigation, he filed charge sheet.

4. The learned Magistrate took the case on file against the accused for the offences punishable under Sections 498-A and 494 IPC and 3 and 4 of the Act. When the charges under Sections 498-A, 494 IPC and 3 and 4 of the Act were framed against the accused, they pleaded not guilty and claimed to be tried. During the course of trial, the prosecution examined PWs.1 to 13 and got marked Exs.P.1 to P.3.

5. After closure of the prosecution evidence, accused were examined under Section 313 Cr.P.C with reference to incriminating material found against them. The Accused denied the offences. On behalf of the accused, no oral evidence was adduced, but marked Exs.D.1 to D.3.

6. After hearing arguments and after perusing the evidence available on record, the learned Magistrate convicted A1 and sentenced him to undergo Rigorous Imprisonment for a period of two years for the offence punishable under Section 498-A IPC and also further sentenced to undergo rigorous imprisonment for a period of one year for the offence punishable under Section 4 of the Act, while acquitting the other accused for the offences with which they were charged.

7. Aggrieved by the conviction and sentence passed by the trial Court, A1 preferred Criminal Appeal No.125 of 2005 before the Sessions Judge, Warangal, where the Appellate Court after considering the oral and documentary evidence, hearing both sides and perusing the findings of the trial Court confirmed the judgment of the trial Court by dismissing the appeal. Hence, this revision.

8. Learned counsel appearing for the revision petitioner/A1 mainly argued that PWs.1 to 3 are interested witnesses and they are closely related to each other, and, hence, their evidence cannot be taken into

consideration. Further the marriage between the de-facto complainant and the petitioner/A1 is an arranged one and that at the time of marriage, PW1 was aged 11 years old, therefore, demand of dowry and harassment does not arise. Further it is argued that now the petitioner is aged 50 years and the offence is of the year 1999 and prayed the Court to reduce the sentence, if this Court comes to conclusion that A1 committed offence.

9. On the other hand, learned Public Prosecutor submitted that the evidence adduced by PWs.1 to 13 and documentary evidence i.e. Exs.P.1 to P.3 clearly establish that the A1 harassed the de-facto complainant during their wedlock and thereafter, she was driven out to her parents' house for demand of additional dowry. It is also argued that the petitioner/A1 married second time with A8 and living with her. Therefore, the findings of both the courts are as per the facts on record, therefore, needs no interference and prayed to dismiss the revision case.

10. Now, the point that arises for consideration is:

Whether the revision petitioner/A1 is entitled to set aside the concurrent judgments passed by the Courts below as prayed for or not?

POINT:

11. A perusal of the record shows that PW.1 is the de-facto complainant, who is the wife of A1 and PWs.2 and 3 are parents of PW.1 and in-laws of A1 and PWs.4 to 12 are elders and PW.13 is the investigating officer. The prosecution mainly relied on the evidence of Pws.4 to 11. The marriage between PW.1 and the accused was an arranged one and that at the time of marriage, PW.1 was about 11 years. After attaining the puberty, PW.1 joined the company of the accused. It is also an admitted fact that PW1 gave a birth to a male child. The appellate Court as well as the trial Court rightly gave a finding that A1 used to harass PW.1 in spite of amicable settlement by the elders. Subsequently, the relationship between PW.1 and A1 strained. As seen from the evidence of PWs.1 to 3, it is evident that at the time of marriage, Rs.85,000/- of cash and household articles worth Rs.5,000/- were given to A1. After their marriage and after attained puberty

by PW1, she lived some time with A1. During that time, A1 used to beat PW.1 and used to ill-treat her and demanded more dowry as she was not beautiful. The same was informed by PW.1 to her parents. Thereafter also, negotiations were taken place between the two families, but in the meanwhile, in the year 1998, A1 married one Rajitha, who is A8, in a Kunkumeshwara Swamy temple at Parkal.

12. Both the courts gave a finding that the prosecution has not proved the case against A3 to A10 and rightly acquitted them. Basing on the evidence of PWs.1 to 3, the trial Court as well as the appellate Court held that A1 committed the offence punishable under Section 498-A IPC and also Section 4 of the Act. The revision petitioner is not in a position to establish any of the grounds to interfere with the findings of both the Courts. Therefore, the findings recorded by both the Courts are based on the evidence adduced and thus the prosecution is able to prove that the accused committed the offence. Therefore, the findings of both the Courts need no interference by this Court.

13. Learned counsel for the petitioner argued that the petitioner is aged about 50 years and he is suffering with some ailments and that he has to maintain his parents, who are very old and that he is the sole bread winner of the family and requested to take a lenient view.

14. Taking into consideration of the facts and circumstances of the case, I am of the view that a lenient view may be taken in favour of the accused by reducing the sentence of imprisonment to one year rigorous imprisonment from two years rigorous imprisonment. Therefore, I am inclined to dispose of the revision as under.

15. The order of conviction recorded against the revision petitioner/A1 by the IV Additional Judicial First Class Magistrate, Warangal in C.C.No.731 of 1999 for the offence punishable under Section 498-A and Section 4 of the Act and as confirmed by Sessions Judge, Warangal in CrI.A.No.125 of 2005 is hereby confirmed. But, the sentence of imprisonment of two years rigorous imprisonment is reduced to one year rigorous imprisonment. The

period of imprisonment already suffered by the revision petitioner/A1 is directed to be given set off.

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

17. The miscellaneous petitions, if any, filed in this revision case shall stand dismissed.

Date: 19.03.2015
Kvrm

ANIS, J

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