

HON'BLE SMT. JUSTICE ANIS
CRIMINAL REVISION CASE No. 150 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/*de facto* complainant challenging the judgment dated 12.04.2006, passed by the learned IX Metropolitan Magistrate, Cyberabad at Kukatpally, in C.C.No.979 of 2005, whereunder and whereby the accused are found not guilty for the offences punishable under Section 498-A of the Indian Penal Code, 1860 (for short 'IPC') and under Sections 3 and 4 of the Dowry Prohibition Act, 1961 (for short 'D.P.Act') and accordingly they are acquitted.

2. The revision petitioner herein is the *de facto* complainant, respondents 1 to 6 are the accused and respondent No.7 is the complainant in C.C.No.979 of 2005 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 case of the prosecution in brief is that the *de facto* complainant was given in marriage to one Pavankumar Reddy (A.1) and their marriage was solemnized on 03.12.1999 at Kanipakam Vinayaka temple. At the time of marriage, the parents of the *de facto* complainant gave Rs.5 lakhs cash, 20 tulas of gold and one Hero Honda motor cycle to A.1. After the marriage, the *de facto* complainant joined her husband and lead happy marital life for about two months in Jala Vayu Vihar colony of Kukatpally. Thereafter, A.1 started demanding additional amount of Rs.1,50,000/- from the *de facto* complainant and her parents as he intended to go to U.S.A. Accordingly, the parents of the *de facto* complainant gave Rs.1,50,000/- to A.1, but he did not go to U.S.A. Even after taking the said amount, the other accused joined hands with A.1 and started

demanding further amount of Rs.50,000/- as dowry to meet the expenses of the marriage of A.1's brother i.e. A.2. As the *de facto* complainant has not brought the said amount and not obliged the demand of the accused, she was not taken to the marriage of her brother-in-law by her husband. Thereafter, A.1 deserted PW1, who ultimately went to her parents house. Thereafter, the *de facto* complainant gave a complaint to the police about the harassment and cruelty by demanding additional dowry. After receiving the complaint, the police registered the case in Crime No.140 of 2001 under Section 498-A IPC and under Sections 3 and 4 of D.P. Act.

4. The learned Magistrate took cognizance of the case and framed charges against the accused for the offences punishable under Section 498-A IPC and under Sections 3 and 4 of D.P. Act against all the accused. During trial, on behalf of the complainant, PWs 1 to 6 were examined and Exs.P.1 and P.2 got marked.

5. After closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C putting all incriminating material available against them. They denied the material evidence, but examined DWs 1 to 3 and got marked Ex.D.1.

6. After considering the evidence on record, the trial Court held that there was no convincing, cogent and acceptable evidence produced by the prosecution regarding the cruelty and harassment meted out by the *de facto* complainant in the hands of accused and the trial Court also opined that the prosecution failed to bring home the guilt of the accused for the offences alleged beyond reasonable doubt and thereby acquitted the accused for the charges.

7. Being aggrieved by the judgment of the trial Court passed in C.C.No.979 of 2005, the accused preferred the present revision case.

8. The learned counsel appearing for the revision petitioner/

de facto complainant argued that the evidence of PWs 1 to 4 clearly establishes the harassment made by the accused; that the complaint Ex.P.1 and the FIR Ex.P.2 also clearly show that the accused demanded additional dowry from the parents of the *de facto* complainant; that the trial Court has not taken into consideration the fact of demanding additional dowry of Rs.50,000/- by A.1; that the evidence of PWs 1 to 4 and the independent evidence of PW5 are not considered; that there are no discrepancies in the evidence of PWs 1 to 5, and therefore, prayed the Court to allow the revision case by setting aside the judgment dated 12.04.2006 passed in C.C.No.979 of 2005.

The learned counsel relied on a case-law reported in *Vijay @ Chinee Vs. State of Madhya Pradesh*^[1], wherein the Hon'ble Supreme Court held at Para 25 as follows:

“Thus, in view of the above, the law on the point can be summarised to be that the evidence of the witnesses must be read as a whole and the cases are to be considered in totality of the circumstances and while appreciating the evidence of a witness, minor discrepancies on trivial matters, which do not affect the core of the prosecution case, should not be taken into consideration as they cannot form grounds to reject the evidence as a whole.”

9. On the other hand, the learned counsel for the respondents 1 to 6 argued that after considering the evidence of PWs 1 to 4 the trial Court rightly held that the *de facto* complainant has not proved about the demand of dowry made by the accused and she did not state the nature of the harassment made by the accused; that the only allegation of the *de facto* complainant is that A.1 has not taken her to the marriage of her brother-in-law; that the trial Court after considering the evidence of prosecution and defence, rightly acquitted the respondents; that there is no failure of the trial Court to consider the evidence; that when two views are possible, the view in favour of the accused has to be considered; that DW2 clearly stated that there was

a settlement took place between the *de facto* complainant and the accused and in that compromise it was agreed that the accused should pay Rs.3,50,000/- as full and final settlement and in pursuance of that, an amount of Rs.3 lakh was paid and Rs.50,000/- has to be paid at the time of divorce; that PW1 in his cross-examination admitted about receiving of Rs.3 lakh; that there is no case for the revision petitioner, and finally prayed the Court to dismiss the revision case.

10. Now, the point for determination is --

Whether the revision petitioner/*de facto* complainant is entitled to set aside the judgment passed by the trial Court for acquitting the accused under Sections 498-A IPC and under Sections 3 and 4 of D.P. Act?

11. **POINT:**

The *de facto* complainant is examined as PW1 and the report given by her to the police is marked as Ex.P.1. PW1 in her evidence stated about the dowry demand made by the accused and additional dowry of Rs.50,000/- demanded to meet the marriage of her brother-in-law. PW1 further stated that her husband (A.1) left her in the house and did not return to the house from 08.10.2000. To support the evidence of PW1, her parents were examined as PWs 2 and 3, who have stated about the demand of dowry made by the accused.

12. The learned counsel for the respondents 1 to 6 contended that PW4, being the brother of PW1, has not stated in his evidence about the demand of additional dowry of Rs.50,000/-. Admittedly, PW1 in the cross-examination though denied about the settlement made between the parties but admitted about receiving of Rs.3 lakhs. Further, PW4 has not stated about the demand of additional dowry of Rs.50,000/-. In this case, the only allegation is that PW1 was not taken to the marriage of her brother-in-law by her husband – A.1.

13. The contention of the respondents 1 to 6 is that there was a

compromise effected on 21.03.2002 in which the accused paid Rs.3 lakhs to the *de facto* complainant and she suppressed the said fact, but admitted in the cross-examination about receiving of Rs.3 lakhs from the accused. DW2 is closely related to the *de facto* complainant and the *de facto* complainant is the daughter of his elder sister. DW2 clearly stated about the settlement of disputes and maintenance between the parties, wherein Rs.3 lakhs was paid on 21.03.2002. The *de facto* complainant and her mother signed on the agreement for full and final settlement and DW2 represented the *de facto* complainant and her mother in the said panchayat. Therefore, the Investigating Officer failed to examine the common relatives of both the accused and the *de facto* complainant to elicit the correct picture about the demand of dowry alleged to be made by the accused.

14. In view of the ample evidence on record, it is clear that the *de facto* complainant failed to prove the ingredients of Section 498-A IPC and Sections 3 and 4 of D.P. Act. Therefore, the trial Court rightly acquitted the respondents 1 to 6 for the charges framed and the findings of the trial Court needs no interference of this Court.

15. Accordingly, the Criminal Revision Case is dismissed, confirming the judgment dated 12.04.2006, passed in C.C.No.979 of 2005 on the file of IX Metropolitan Magistrate, Cyberabad at Kukatpally.

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

ANIS, J

Date: 18.02.2015

Anr

[\[1\]](#) 2011(2) ACR 1416 (SC)