

THE HON'BLE SRI JUSTICE RAJA ELANGO
CRIMINAL APPEAL No.1768 of 2007

JUDGMENT:

The appellant-Accused preferred the present Criminal Appeal by invoking the provisions under Section 378(4) of the Code of Criminal Procedure being aggrieved by the judgment, dated 31.05.2007, passed in C.C. No.93 of 2001 by the Additional Judicial Magistrate of First Class, Chodavaram, Visakhapatnam District, whereby the learned Judge found the accused not guilty of the offence under Section 498-A IPC and accordingly, acquitted them.

The case of the prosecution is that the marriage of the appellant was performed with the 1st respondent in the year 1992 and at the time of marriage, her parents gave dowry and gold to the 1st respondent. Out of their wedlock, they blessed with two female children. Thereafter, the 1st respondent started harassing the appellant demanding additional dowry and started ill-treating her. Finally, in the month of November 2000, the appellant was necked out from her marital house and on 16.03.2001 she gave a report to the Butchiyyapeta Police against the 1st respondent and his family members. The said complaint was registered as crime No.11 of 2001 for the offence under Section 498-A IPC. After completion of investigation, police filed charge sheet against the respondents 1 and 2 - accused.

The case was taken on file for the offence under Section 498-A IPC. On appearance of accused, the charge was read over and explained to them in Telugu, for which, they pleaded not guilty and claimed to be tried.

To substantiate its case, the prosecution examined PWs.1 to 8 and got marked Exs.P-1 to P-6. No oral or documentary evidence was

adduced on behalf of the accused.

After appreciating the oral and documentary evidence available on record, the learned trial Judge found the respondents 1 and 2 – accused not guilty of the offence under Section 498-A IPC and accordingly, acquitted them. Aggrieved by the said judgment, the petitioner – complainant preferred the present appeal.

Heard and perused the entire material on record.

Learned counsel for the appellant – complainant argued that the judgment of the trial Court is erroneous and contrary to law and without appreciating the evidence in proper way, the learned trial Judge passed the impugned judgment and hence, he prayed for setting aside the conviction and sentence imposed by the trial Court against the accused.

The evidence of PW.2 is consistent in this case. She deposed about performance of her marriage with the 1st respondent and giving of dowry of Rs.18,000/- to him and the subsequent harassment made by the respondents 1 and 2 and also the demand of additional dowry Rs.50,000/- by them. There is no specific mention about the cruelty made by her husband in demand of additional dowry. In her cross-examination, it was elicited that the 1st respondent filed OP No.3 of 2001 on the file of Senior Civil Judge, Chodavaram against her on the ground of adultery. PW.3, who is the sister of PW.1, stated in her evidence that at the time of marriage of the appellant and the 1st respondent, their father gave Rs.25,000/- as dowry to the 1st respondent. There are discrepancies in the evidence of PW.2 and PW.3. The other witnesses turned hostile. None of the witnesses speak about the harassment and cruelty made by the 1st respondent towards the appellant in connection with demand of additional dowry. The trial Judge also observed that PW.2, who is the victim, has not

deposed any mental or physical harassment made by the 1st respondent with regard to demand of additional dowry. While dismissing the CC, the learned trial Judge observed as follows:

“The evidence of PW.1, 3 and 7 are contradictory with each other. Moreover A1 demanded Rs.50,000/- from the parents of P.W.2 for the purpose of doing business. This fact was categorically stated by P.W.1, 2 and 7. the evidence of P.W.2 did not reveal about the physical and mental harassment made by A-1. This court feels mere demanding of Rs.50,000-00 is not comes under the purview of harassment for demanding additional dowry. According to Section 498-A IPC, harassment or cruelty should be of such nature. So as to force the wife to commit suicide. The reasonable nexus between cruelty and suicide should be established by the prosecution. Herein this case this court did not find any cruelty made by accused against P.W.2. Moreover it is admitted by P.W.1, 2 and 7 that a divorce petition filed by A-1 against P.W.2. P.W.2 also admitted in her cross examination, she knows about one Koppurolu Raju who is the 2nd respondent in OP No.3/2001. So this court feels that this present case is filed by P.W.2 after filing of the above said divorce petition by A1 against P.W.2 on the ground of adultery. Considering the above, this Court feels that accused did not harass the PW.2 and that no ill-treatment made by accused.”

This Court is of the view that the findings recorded by the trial Court do not suffer from any infirmity and illegality, and therefore, this Court is not inclined to interfere with the judgment under appeal.

Hence, the Criminal appeal is dismissed. Miscellaneous applications, pending if any, shall stand closed.

RAJA ELANGO, J

July 26, 2016.
KTL