

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1153 of 2006

JUDGMENT:

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1. This revision case is filed by the petitioner-A1 against the judgment dated 4.7.2006 passed in CrI.A.No.153 of 2003 by the V Additional Sessions Judge, West Godavari, Eluru.

2. The case of the prosecution is as follows:

The marriage of A1 was performed with P.W.1 on 10.8.1994 according to Hindu customs. A2 and A3 are the parents of A1. At the time of marriage, the parents of P.W.1 gave an amount of Rs.1,00,000/- cash to A1 to A3 as dowry. P.W.1 joined the society of her husband. A1 has got a petrol bunk at Gopalapuram under self-employment scheme. A1 has been residing in the house of P.W.5, a retired M.R.O. at Gopalapuram. A1 at the instigation of his parents-A2 and A3 demanded P.W.1 to get a colour TV., Scooter and a gold chain from her parents, for which P.W.1 refused. A1 to A3 harassed her mentally and physically and beat her indiscriminately. P.W.1 informed the same to her parents. On that, the father of P.W.1 gave cash as per the demand made by the accused from time to time. A1 again at the instigation of his parents A2 and A3 harassed P.W.1 stating that the dowry gave to him is not sufficient. He demanded additional dowry. When P.W.1 informed to her parents, her father-L.W.2 along with others went to the house of the accused. In their presence A1 slapped L.W.2 and threw away samans of P.W.1. As such, L.W.2 brought back his daughter to Nidadavole. Thereafter, the mediators sent P.W.1 to the house of A1. But the accused did not allow her to stay. As there is no othergo, P.W.1 returned to her parents' house. Thereafter, A1 continued his harassment by sending legal notices for divorce. On 4.7.1994 A1 to A3 came down to Nidadavole and threatened P.W.1. On that, P.W.1 gave a report, basing on which, a case was registered

and investigated into. After completion of the investigation, charge sheet was filed.

3. The learned II Additional Judicial First Class Magistrate, Kovvur took the case on file as C.C.No.514 of 1999. The learned Magistrate framed charges for the offence under Sections 498-A IPC and 506 Part II IPC against A1 to A3, read over and explained to them, for which, they pleaded not guilty and claimed to be tried.

4. During the course of trial, P.Ws.1 to 10 were examined and Exs.P1 to P4 were marked on behalf of the prosecution. No oral or documentary evidence was adduced on behalf of the accused.

5. On appreciation of both oral and documentary evidence, the trial Court found A1 and A2 guilty for the offence under Section 498-A IPC, convicted and sentenced them as follows:

- 1) A1 was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2,000/- in default to suffer simple imprisonment for a period of two months for the offence under Section 498A IPC;
- 2) A2 was convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2,000/- in default to suffer simple imprisonment for a period of two months for the offence under Section 498-A IPC;

A3 was acquitted for the charge under Section 498-A IPC. A1 to A3 were acquitted for the charge under Section 506 Part II IPC. Aggrieved by the conviction and sentence imposed by the trial Court for the offence under Section 498-A IPC, A1 and A2 filed appeal viz., CrI.A.No.153 of 2003 before the V Additional Sessions Judge, West Godavari, Eluru. The learned Additional Sessions Judge partly allowed the appeal by setting aside the conviction and sentence

recorded by the trial Court against A2 for the offence under Section 498-A IPC, and by confirming the conviction and sentence recorded against A1 for the offence under Section 498-A IPC. Aggrieved by the said conviction, A1 filed the present revision.

6. Heard and perused the material available on record.

7. From the material on record and the evidence of P.W.1, it is evident that the petitioner was subjected to harassment by A1. Both the Courts below gave concurrent findings in this regard. Considering the facts and circumstances of the case and in view of the concurrent findings of both the Courts below, this Court is not inclined to interfere with the conviction recorded by the lower appellate Court against the petitioner-A1 for the offence under Section 498-A IPC.

8. At this stage, the learned Counsel for the petitioner prayed for modification of the sentence.

9. In view of the above submission, this Court is inclined to set aside the sentence of imprisonment.

10. In the result, the conviction recorded by the learned V Additional Sessions Judge, West Godavari, Eluru against the petitioner-A1 for the offence under Section 498-A IPC is confirmed. However the sentence of imprisonment imposed for the said offence is set aside. The sentence of fine with default sentence is confirmed. Further, the petitioner is directed to pay a sum of Rs.50,000/- as additional fine on or before 30.9.2016. On such payment of additional fine amount, the same shall be given as compensation to P.W.1-wife of the petitioner. In default of payment of additional fine, the petitioner-A1 shall undergo simple imprisonment for a period of three months.

11. Accordingly, the Criminal Revision Case is partly allowed. Consequently, miscellaneous petitions pending, if any, shall stand

closed.

JUSTICE RAJA ELANGO

Dated:5th August, 2016
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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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