

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.1691 of 2007

JUDGMENT:

1. This revision is filed by the petitioner-accused against the Judgment dated 12.11.2007 passed by the I Additional Sessions Judge, Khammam, in Crl.A.No.27 of 2006.

2. The case of the prosecution is as follows:

The marriage of the de facto complainant-Gadhe Nagalakshmi with the accused was performed on 4.6.1998. At the time of marriage, Rs.1,00,000/-cash and one and half acre wet land by the side of Sagar Canal were given to the accused. After marriage, the accused got a Government job and he was posted in Venkatapuram village. As the de facto complainant was pregnant at that time, the accused did not take her. The accused started demanding her to bring more dowry as he is a Government employee. He also suspected the fidelity of the de facto complainant and used to harass her physically and mentally. Again, the accused suspected her fidelity stating that both the children were not born to him. When the matter was placed before L.Ws.4 and 5-Choudam Venkaiah and Pedili Venkamma, they tried to settle the matter. But the accused did not hear them. On 4.4.2003, the accused quarreled with the de facto complainant and threatened her with dire consequences. On that, the de facto complainant called her parents. They took her to their house. On 8.4.2003, the de facto complainant lodged the report, basing on which, a case was registered and investigated into. After completion of the investigation, charge sheet was filed.

3. The learned Judicial Magistrate of First Class, Special Mobile Court, Khammam, took the case on file and numbered it as C.C.No.267 of 2003, for the offence under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act.

4. The trial Court framed charges under Sections 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act against the accused, read over and explained to him for which he pleaded not guilty and claimed to be tried.

5. During the course of trial, P.Ws.1 to 10 were examined and Exs.P1 to P5 were marked on behalf of the prosecution. Ex.D1 was marked on behalf of the accused.

6. On appreciation of both oral and documentary evidence, the trial Court found the accused guilty for the offence under Section 498-A IPC, convicted and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/- in default to suffer simple imprisonment for a period of four months, while acquitting him for the offence under Sections 3 and 4 of the Dowry Prohibition Act. Aggrieved by the said conviction, the accused filed appeal viz., Crl.A.No.27 of 2006 before the I Additional Sessions Judge, Khammam. The said appeal was partly allowed modifying the sentence of one year rigorous imprisonment imposed by the trial Court to that of six months. Aggrieved by the said sentence, the petitioner-accused filed this revision.

7. Learned Counsel for the petitioner submitted that the trial Court has failed to consider the evidence of the prosecution witnesses in a proper perspective and that there are no ingredients of offence under Section

498-A IPC and there are many discrepancies in the evidence of the prosecution witnesses and that the accused is entitled for acquittal.

8. Learned Additional Public Prosecutor submitted that the judgment under revision does not warrant any interference by this Court.

9. In a case of this nature, the evidence of the de facto complainant-P.W.1 plays a very significant role. Now, it is to be examined as to whether the evidence of P.W.1 inspires confidence of this Court. It is the evidence of P.W.1 that the accused harassed her physically and mentally by suspecting her fidelity. He attempted to throttle her in his house by raising the volume of the television. But in the complaint, she did not state that the accused made any attempt to throttle her. On one hand, she stated that the accused used to harass her by suspecting her fidelity and on the other, she stated that he harassed her by demanding additional dowry. P.W.1 stated that the accused did not come to see her child, whereas P.W.2, who is none other than P.W.1, stated that the accused came to their house to see his child. The investigating officer admitted that P.W.1 did not state before him that the accused told her that he would kill P.W.1 and marry another girl for dowry. As per the case of the prosecution, the matter was placed before the panchayat elders. But the said panchayat elders alleged to have conducted panchayat, did not support the case of the prosecution. They turned hostile. The parents of P.W.1, except stating that the accused harassed P.W.1, they did not specifically state the manner in which P.W.1 was subjected to cruelty. The evidence of P.W.1 is not consistent and corroborative. All the allegations are vague in nature. The evidence of P.W.1 does not inspire any confidence of this Court.

10. Further, in a case of this nature, the consequences of cruelty which are likely to drive a woman to commit suicide or to cause grave injury or danger to life, limb or health, whether mental or physical of the woman are required to be established in order to bring home the application of Section 498-A IPC. There is nothing to suggest that the petitioner acted in such a manner.

11. In the above circumstances, this Court is of the view that no case was made out against the accused for the offence under Section 498-A IPC.

12. In the result, the conviction and sentence imposed by the I Additional Sessions Judge, Khammam in Crl.A.No.27 of 2006, vide judgment dated 12.11.2007 for the offence under Section 498-A IPC are set aside. Consequently, the accused is acquitted for the said charge. The fine amount paid, if any, shall be refunded to the petitioner-accused. Miscellaneous petitions pending, if any, shall stand closed. Bail bonds shall stand cancelled.

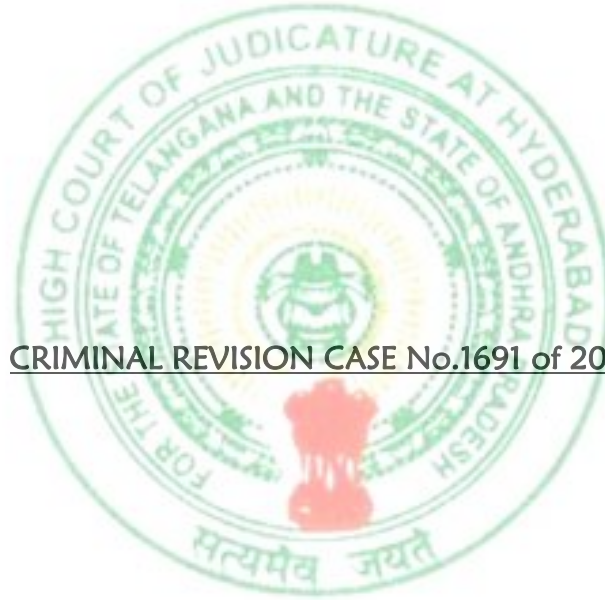
13. Accordingly, the Criminal Revision Case is allowed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated:28th September, 2016

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28.9.2016

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