

THE HON'BLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.34 OF 2008

JUDGMENT:

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), is directed against the judgment, dated 17.12.2007, in Sessions Case No.196 of 2006 on the file of the IX Additional District & Sessions Judge (Fast Track Court), Krishna at Machilipatnam, whereunder and whereby, the appellant /A.1 was found guilty of the offence punishable under Section 498-A IPC and sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.1,000/-, in default to suffer simple imprisonment for three months. However, A.2 and A.4 were found not guilty of the offences punishable under Sections, 306, 498-A and 304-B read with 34 IPC and accordingly, they were acquitted. The appellant/A.1 was acquitted of offences punishable under Sections 304-B and 306 IPC. Since A.3 died, the case against him was abated.

2. The brief facts that are necessary for disposal of the present appeal may be stated as follows:

Smt Yashoda (hereinafter referred to as 'the deceased') is daughter of P.W.1 and sister of P.W.2. A.2 and A.3 are parents of A.1. A.4 is sister of A.1. The marriage of A.1 and the deceased was a love marriage without consent and knowledge of their parents, which was performed one and half year prior to the date of incident. After the marriage, the deceased went to the house of P.W.1 and where they led happy marital life for a period of four (04) months and thereafter, she was subjected to ill-treatment both physically and mentally. Thereafter, A.1 and the deceased shifted to Avanigadda Village, Krishna District, where A.1 used to comment the beauty of the deceased and harassed her. After some time, again A.1 and

deceased came to P.W.1's house and A.1 used to pick up quarrel with the deceased and snatched away her tali bondu from her neck. Three days prior to the date of incident, P.W.2, brother of P.W.1, along with P.W.4 and another went to the house of A.1 for mediation, where accused abused them in filthy language and A.1 demanded for dowry to purchase new auto. P.W.2 returned back to the house and informed the same to the deceased and P.W.1. On 16.05.2005 at about 6:00 AM., P.W.1, who went to Karakatta for cutting toddy leaves, returned to the house and noticed that the doors and windows were closed and also noticed that the deceased committed suicide by hanging herself with a rope to iron hook of the house. On hearing the cries of P.W.1, P.W.3 and others came there and broke open the doors of the house. Later P.W.1 gave complaint to police stating that the deceased died due to dowry harassment. Police took up investigation and arrested the accused. After completion of investigation, police laid charge sheet against the accused.

3. After apprehension of the accused, the learned Magistrate framed the charges under Sections 306, 498-A and 304-B read with 34 IPC against the accused. The charges were read over and explained to them in Telugu and they pleaded not guilty and claimed to be tried.

4. To substantiate the charges, prosecution examined P.Ws.1 to 11 and got marked Exs.P.1 to P.15 besides case properties – M.Os.1 to 4.

5. After closure of prosecution evidence, the accused were examined under Section 313 Cr.P.C., for which they denied the incriminating circumstances appearing against them in the evidence of prosecution witnesses. No oral or documentary evidence was adduced on behalf of the accused.

6. The trial Court, basing on the evidence available on record,

found A.1 guilty of the charge under Section 498-A IPC and accordingly, convicted and sentenced him, as stated supra. Challenging the conviction and sentence, the present appeal is filed by the appellant/A.1.

7. Learned counsel appearing for the appellant/A.1 after arguing some time stated that the trial Court has acquitted the other accused while convicting the appellant/A.1 and that the appellant suffered substantial period in prison.

8. Considering the facts and circumstances of the case, this Court is inclined to reduce the sentence of imprisonment for the offence stated above to that of the period, which the appellant/A.1 has already undergone.

9. In the result, the conviction recorded by the IX Additional District & Sessions Judge (Fast Track Court) , Krishna at Machilipatnam, against the appellant/A.1 for the offence referred to above is confirmed. But, however, the sentence of imprisonment imposed by the learned trial Judge under the above head is reduced to the period already undergone by the appellant/A.1. The fine amount imposed by the trial Court is not interfered with.

10. Accordingly, the Criminal Appeal is partly allowed. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

RAJA ELANGO

AUGUST 04, 2016
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Date: 04.08.2016

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