

HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Revision Case No.967 of 2009

ORDER:

The present revision is filed under Sections 397 and 401 Cr.P.C. questioning the judgment, dated 16-06-2009 passed in CrI.A.No.147 of 2005 on the file of the I Additional District & Sessions Judge, Vizianagaram, wherein the appeal filed by the revision petitioner – appellant was partly allowed by confirming the conviction and sentence given by the Assistant Sessions Judge, Vizianagaram in Sessions Case No.37 of 2003, dated 28-11-2005 against the revision petitioner – appellant under Section 498-A I.P.C. and acquitting the revision petitioner – appellant for the offence under Section 306 I.P.C. after setting aside the sentence awarded by the lower court.

The case of the prosecution is as follows :

The deceased was given in marriage to the accused – revision petitioner herein in the year 1991. At the time of marriage, father of the deceased gave dowry of Rs.20,000/- in cash, 10 tolas of gold ornaments and *sare samanulu* to the accused – revision petitioner herein. After the marriage, both the accused and the deceased lead happy marital life for a period of one year and the deceased gave birth to a son. After that, the accused started to harass the deceased both physically and mentally demanding her to bring additional

dowry from her parental house. Therefore, the deceased earlier lodged a complaint in Crime No.195 of 1995 on the file of the Gajuwaka Police Station alleging cruelty by the petitioner herein, in which a case was registered under Section 498-A I.P.C. The deceased also filed a maintenance case against the accused in M.C.No.28 of 1996 on the file of the Additional Judicial First Class Magistrate Court, Vizianagaram. Thereafter, the case registered against the accused – revision petitioner herein under Section 498-A I.P.C. was ended in acquittal and the petitioner herein filed a case for restitution of conjugal rights. During pendency of the case, due to intervention of elders, the deceased and the revision petitioner herein joined and started living together. Within a period of six months thereafter, due the harassment of the petitioner herein, deceased committed suicide by consuming pesticide. On the basis of the complaint given by the father of the deceased, the case is registered under Section 174 Cr.P.C., which was later altered to Section 306 I.P.C.

In order to substantiate its case, the prosecution examined P.Ws.1 to 14 and got marked Exs.P1 to P14, besides M.Os.1 to 7. D.Ws.1 to 4 were examined and Exs.D1 to D7 were marked on behalf of the accused.

The trial Court as well as the appellate Court mainly placed reliance on the evidence of the relatives those who deposed before the Court that the petitioner herein used to harass the deceased by consuming alcohol and he used to

force the deceased also to consume alcohol and sometimes he used to cause burn injuries to the deceased by the cigarette buds. To substantiate the same, there is no eye-witness to the occurrence. The said fact was informed by the witnesses, which is hearsay in nature. Apart from that, the prosecution mainly relied on Ex.P3, which is a letter written by the deceased informing that she could not able to survive in the world in view of the sufferings in her matrimonial home and she does not want to be a burden to anyone. The said Ex.P3 is disputed by the defence on the ground that the same was not signed by the deceased and the same was not sent to the handwriting expert to substantiate that the said letter was written by the deceased. Further, the said letter was produced by P.W.9 after lapse of three days. The Court perused the said suicide note and also the evidence adduced. Even the contents of the suicide note are admitted as true and written by the deceased, the said suicide note does not disclose anything to attract the offence under Section 498-A I.P.C., since the said suicide note does not explain the manner in which she was subjected to cruelty, which necessitated her to commit suicide. The evidence of the witnesses also not specific in nature, more particularly regarding the cruelty meted out by the deceased in the hands of the accused concerned. To attract an offence under Section 498-A I.P.C., the main ingredient should be the cruelty, which should be in the nature of driving a woman to commit suicide. Since because the wife has committed suicide that itself cannot be taken into consideration that the

harassment is of such a nature, which forced her to commit suicide. Hence, this Court is of the view that even the evidence adduced by the prosecution is admitted as true, the same will not attract the offence under Section 498-A I.P.C.

Accordingly, Criminal Revision Case is allowed by setting aside the conviction and sentence imposed on the revision petitioner by the Courts below and he is acquitted of the charges levelled against him.

Miscellaneous petitions pending in this revision, if any, shall stand closed.

RAJA ELANGO, J.

23rd August, 2016

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