

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2673 OF 2016

ORDER:

This Criminal Revision Case is filed by the petitioner/*de facto* complainant under Sections 397 and 401 Cr.P.C. challenging the judgment, dated 12.10.2009, in Criminal Appeal No.50 of 2008 on the file of the II Additional Sessions Judge, East Godavari District at Amalapuram whereunder and whereby, the learned Sessions Judge allowed the appeal filed by respondent No.2/A-1 against the judgment, dated 7.2.2008, in C.C.No.48 of 2004 on the file of the Judicial First Class Magistrate, Mummidivaram.

2. Case of the prosecution, in brief, is as follows:

The marriage of the petitioner/P.W.1 was performed with A-1 on 13.8.1998 at Amalapuram. At the time of marriage, an amount of Rs.2,40,000/- and 30 sovereigns of gold articles were presented by the mother of P.W.1 (P.W.2) to the accused towards dowry and subsequent to the marriage, an amount of Rs.1,00,000/- was given for purchase of furniture and an amount of Rs.50,000/- was given for purchase of motor cycle and in spite of all these things, A-1 was not happy and all the time harassing P.W.1 demanding for more amount by way of dowry and also insisting her to get her share in the properties from her parents. At the time of marriage, a representation was made to P.W.1 and her relations that A-1 was aged 24 years and was an Engineering Graduate employed in O.N.G.C. and all these things were later found to be false because A-1 was aged 30 years at that time and he discontinued his engineering and he was also not employed anywhere. After six

months of the marriage, the accused started harassing P.W.1 both physically and mentally to bring additional dowry from her parents and also to bring Rs.3,000/- or Rs.4,000/- from her parents. She used to bring Rs.3,000/- or Rs.4,000/- from her parents and give it to the accused several times. Even then, the accused did not change their attitude and continued the harassment towards P.W.1 for which, she attempted to commit suicide by pouring kerosene and lit fire and she was rescued by the neighbours. After that, elders interfered into the family disputes and held negotiations with the accused and settled that P.W.1, A-1 and their two daughters would separate from the in-laws' house of P.W.1 and A-2 has to give Rs.3,000/- to P.W.1 per month for maintenance as A-1 has no profession and separated them. Even then, A-2 did not give any amount to P.W.1 for the maintenance of her family and harassed her. On 25.1.2004, A-1 demanded P.W.1 to bring amount from her parents' house for which, she refused and A-1 grew wild and beat her indiscriminately with hands and caused injuries. L.Ws.4 and 7 and others interfered and separated P.W.1 from the hands of A-1. On 5.2.2004, at 11:00 A.M., P.W.1 gave a complaint in Mummidivaram Police Station and basing on her complaint, the Sub-Inspector of Police, Mummidivaram Police Station registered a case in Crime No.11 of 2004 under Sections 498-A, 420 and 323 read with 34 I.P.C.

3. Cognizance was taken against A-1 to A-3 for the offences under Sections 498-A, 420 and 323 read with 34 I.P.C. After appearance of the accused, they were charged under Sections

498-A, 420 and 323 read with 34 I.P.C. for which, they pleaded not guilty and claimed to be tried. So, they were placed for trial.

4. The prosecution examined nine witnesses and marked four documents. After closure of the prosecution evidence, A-1 to A-3 were examined under Section 313 Cr.P.C., but they denied the evidence. On behalf of the accused, no witnesses were examined and ten documents were got marked.

5. After considering both oral and documentary evidence on record, the trial Court found A-1 to A-3 not guilty of the offence under Section 420 I.P.C. and also found A-2 and A-3 not guilty of the offences under Sections 498-A and 323 I.P.C. and accordingly, acquitted them of the said offences under Section 248(1) Cr.P.C. However, the trial Court found A-1 guilty of the offences under Sections 498-A and 323 I.P.C. and accordingly, convicted him under Section 248(2) Cr.P.C. and sentenced him to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.2,000/- and in default, to undergo simple imprisonment for a period of three months for the offence under Section 498-A I.P.C. and further, sentenced to undergo simple imprisonment for a period of three months for the offence under Section 323 I.P.C. Aggrieved thereby, A-1 preferred the aforementioned appeal and the same was allowed by the learned Sessions Judge reversing the judgment of the trial Court. Challenging the said judgment, the *de facto* complainant filed this Revision Case.

6. Heard and perused the material available on record.

7. The learned Sessions Judge, after appreciating both oral and documentary evidence on record, rightly found A-1 not guilty of the offences under Sections 498-A and 323 I.P.C. and accordingly, acquitted him under Section 386(b)(i) Cr.P.C. The reasons adduced by the appellate Court are well in accordance with law. Hence, this Court is of the view that the impugned judgment warrants no interference of this Court.

8. Further, in a case of revision against acquittal, this Court will not interfere with the judgment of the appellate Court unless and otherwise, the evidence adduced by the prosecution clinchingly points towards the guilt of the accused. In the present case, the learned Sessions Judge has considered all aspects and rightly acquitted A-1. Hence, this Court is not inclined to interfere with the judgment of acquittal of the appellate Court and the revision fails and is liable to be dismissed.

9. Accordingly, this Criminal Revision Case is dismissed confirming the judgment, dated 12.10.2009, in Criminal Appeal No.50 of 2008 on the file of the II Additional Sessions Judge, East Godavari District at Amalapuram.

10. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

JUSTICE RAJA ELANGO

27.9.2016
AMD

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Date: 27.9.2016

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