

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

CRIMINAL REVISION CASE No.1509 OF 2007

JUDGMENT:

The present Criminal Revision Case is preferred by the *de facto* complainant - PW.1 aggrieved over the judgment, dated 22.08.2007, passed by the XIII Additional Chief Metropolitan Magistrate (Mahila Court), Hyderabad, in C.C. No.172 of 2003, whereby and whereunder, the learned Magistrate acquitted respondent No.2 - accused under Section 248 (1) of the Code of Criminal Procedure, 1973 (for short 'Code') for the charges under Sections 498-A, 406 of IPC and Sections 4 and 6 of the Dowry Prohibition Act, 1961.

2. There has been no representation consistently for the revision petitioner, whereas learned counsel for respondent No.2 - accused has been present and tendered arguments even. Since the present Criminal Revision Case relates to the year 2007 and coming up for hearing after it was admitted on 24.12.2007, taken up for disposal on merits.

3. As could be seen from the grounds of appeal, the main grievance of the *de facto* complainant has been that the learned Magistrate swayed away by the fact that her son gave evidence against her as DW.1 as she did not meet the demands made by her husband and mother-in-law, who are accused persons. In the grounds, in fact, she mentioned as to what all the amounts and articles that were

given at the time of her marriage and for alleged unlawful retention of those articles, the offence under Section 406 IPC has been clutched.

4. The learned counsel for respondent No.1 - accused strongly supported the order passed by the learned Magistrate recording the acquittal, referring to various findings recorded by the learned Magistrate.

5. Perused the judgment in C.C. No.172 of 2003 passed by the learned Magistrate. The facts have been that the marriage between the revision petitioner and respondent No.2 - accused took place on 15.08.1984, at Bheemavaram of West Godavari District, and her parents gave Acs.4.00 gunts of land, 25 sovereigns of gold and cash of Rs.60,000/- towards dowry. It was an arranged marriage. They begot two male children. Initially, they shifted to Vizag and from there to Hyderabad, and lived at Banjara Hills. Thereafter, she alleged that her husband was trying to sell a site at Visakhapatnam and demanded her to get Rs.3,00,000/- and even got registered a lease deed executed in her favour, but he did not sell away the same and, thus, she levels various allegations against her husband, even alleging that her husband did not allow her to take meals with him and even forced to give consent for divorce and her husband and her mother-in-law asked her to accompany them with an intention to abandon her, and even she was manhandled, and a crime, therefor, was registered on her complaint.

6. The learned Magistrate having observed due formalities, when examined respondent No.2, he pleaded not guilty for the aforesaid charges, and the learned Magistrate then recorded the evidence of PW.1 - revision petitioner, PW.2 - V. Seetharamraju, who is her father, PW.3, who is her elder sister, PW.4 - N.V. Ramana Raju, who is her maternal uncle, PWs.5 and 6, who are her neighbours and PW.7, who is Investigating Officer, respectively, and marked Exs.P1 and P2 on behalf of the revision petitioner. Whereas, on behalf of respondent No.2, their son was examined as DW.1, who asserted that his father used to look after them affectionately, and on 14.04.2003 at about 8.30 a.m., his mother, who is PW.1, informed him that she was going to her sister's house, and her mother used to suspect his father and in his absence, she used to propagate bad against his father and, thus, he spoke adverse to the case of the revision petitioner, and marked Ex.D1.

7. The learned Magistrate on an analysis of evidence of PWs.1 to 4 found mutually inconsistent evidence on record and pointed out the inconsistency in paragraph Nos.25, 26 and 27 and subsequent paragraphs. Then, the learned magistrate refers to the evidence of each witness, the lease deed executed by accused in favour of PW.1 and PW.1 asserting that the lease deed was for a period of 95 years in regard to plot situated at Vizag purchased by respondent No.2 himself. Thus, in regard to every incident, the learned Magistrate referred to

the allegation and did not believe the evidence of PWs.1 to 4 and, in fact, he referred to the allegation and that the revision petitioner had went to the extent of asserting that she has seen respondent No.1 and one V. Kavitha, daughter of Bangaru Raju of Vizag staying in one room in Bombay and her visits to Ashoka Hotel of Hyderabad and attributed illegal intimacy between them and her husband developing aversion and trying to get rid of her on that ground. Every sundry incident referred to by her were not believed by the learned Magistrate, and opined that all these allegations have been invented for the purpose of prosecuting her husband, and held that the prosecution failed to prove the charges beyond all reasonable doubt and acquitted respondent No.2.

8. Even the grounds agitated when perused, there is no tangible or concrete ground touching any legal infirmity crept in, in the judgment rendered by the learned Magistrate. In fact, the evidence of DW.1 demolishes the allegations levelled in the complaint and the evidence on record. It is not on record whether DW.1 was tutored to speak in a particular way favouring respondent No.2. In such an event, the findings recorded by the learned Magistrate cannot be viewed as suffering from legal infirmity. Thus, there is no merit in the present Criminal Revision Case.

9. The present Criminal Revision Case is, accordingly dismissed, confirming the judgment rendered by the learned Magistrate.

As a sequel thereto, miscellaneous petitions, if any, pending in the present revision, stand closed.

A. SHANKAR NARAYANA, J

November 28, 2017.

Mgr

