

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL REVISION CASE No.2010 of 2005

ORDER:

This Criminal Revision Case, under Sections 397 and 401 Cr.P.C., is filed questioning the Judgment, dated 13.06.2005, passed in CrI.A.No.11 of 2005 by the VI Additional District and Sessions Judge (Fast Track Court), Markapur, whereby the learned Sessions Judge set aside the conviction and sentence recorded by the learned Assistant Sessions Judge, Markapur vide Judgment, dated 28.02.2005, against the petitioners/A.1 and A.2 for the offence punishable under Section 306 IPC, while confirming the conviction and sentence imposed for the offence punishable under Section 498-A IPC.

2. The facts of the case, in brief, are that A.1 is mother-in-law and A.2 is sister-in-law of Shaik Fathimabi (hereinafter referred to 'as the deceased'). A.1 and A.2 and the deceased used to reside in Ondutla Village under one roof. The deceased was married with the son of A.1 nine years ago prior to her death and the deceased also blessed with three children. Since A.2 became widow, she is residing with the deceased and A.1. A.1 and A.2 started harassing the deceased and did not allow her to lead marital life with her husband. Due to the harassment, the deceased went to her parents house six months prior to her death. One week prior to her death, her husband brought the deceased to his house at Ondutla Village. Again, A.1 and A.2 scolded and harassed the deceased as to why she returned from her parents house and also asked her to die. The deceased could not bear the harassment, decided to put an end to her life. On 04.05.2002 at about 11:00

hours while the inmates were away from the house, the deceased poured kerosene on her body and lit a match stick. While flames engulfed her, she raised cries. The father-in-law of the deceased and P.W.1 reached the deceased and put off the flames. Later, the deceased was shifted to Government Hospital, Cumbum, from there she was shifted to G.G.Hospital, Guntur for better treatment. On information, P.W.5 went to the hospital and recorded the statement of the deceased in the presence of P.W.4 and registered a case in Crime No.23 of 2002 of Woman Burns. The injured died on 08.06.2002 while undergoing treatment. On receipt of death intimation, PW.8 altered the Section of law to 306 read with 34 IPC. On completion of investigation, police filed charge sheet against the accused for the offences punishable under Sections 306 and 498-A IPC before the Judicial Magistrate of First Class, Giddalur.

3. On compliance of Sections 207 and 209 Cr.P.C., the learned Magistrate committed P.R.C.No.60 of 2002 to the Court of Sessions, Prakasam Division, Ongole since the offence is exclusively triable by the Court of Sessions. Later S.C.No.307 of 2002 was made over to the learned Assistant Sessions Judge, Markapur, for disposal in accordance with law.

4. The learned Sessions Judge framed charge against the accused for the offences punishable under Sections 498-A and 306 IPC. On examination, the accused pleaded not guilty and claimed to be tried.

5. To prove the case, the prosecution examined P.Ws.1 to 8 and got marked Exs.P.1 to P.8.

6. The trial court, upon considering the oral and documentary evidence, found the accused guilty for the offences punishable under Sections 498-A and 306 IPC and accordingly, convicted and sentenced to undergo rigorous imprisonment for a period of two years each and to pay fine of Rs.100/- each, in default to suffer simple imprisonment for one month each for the offence punishable under Section 498-A IPC and further sentenced to undergo rigorous imprisonment for five years each and to pay fine of Rs.200/- each, in default to suffer simple imprisonment for one month each for the offence punishable under Section 306 IPC. Aggrieved by the said conviction and sentence, the accused preferred an appeal in CrI.A.No.11 of 2005 before VI Additional District and Sessions Judge (Fast Track Court), Markapur and the same was partly allowed setting aside the conviction and sentence imposed against the petitioners for the offence punishable under Section 306 IPC while confirming the conviction and sentence imposed for the offence punishable under Section 498-A IPC. Aggrieved by the said Judgment, the present revision case is filed.

7. The main ground urged in this revision is the sentence imposed by the appellate Court is excessive and during hearing, learned counsel for the petitioners informed that the petitioners have already underwent substantive sentence of imprisonment i.e., six months and later they were enlarged on bail and requested the Court to reduce the substantive sentence of imprisonment to the sentence already undergone.

8. The learned Public Prosecutor opposed the request contending that the Court cannot reduce the sentence to minimum and prayed to dismiss the revision case.

9. The maximum punishment prescribed for the offence punishable under Section 498-A IPC is three years and fine. But, no minimum sentence is prescribed. Therefore, taking into consideration long lapse of time from the date of conviction to till date and the age of the petitioners, the sentence of imprisonment imposed against the petitioners is reduced to sentence already undergone i.e., six months while increasing the fine amount of Rs.200/- to Rs.2,000/- each with default sentence of simple imprisonment for three months each.

10. With the above modification, the Criminal Revision Case is allowed. Miscellaneous petitions, if any, pending in this revision case shall stand closed.

M. SATYANARAYANA MURTHY, J

SEPTEMBER 21, 2017

YVL

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY



CRIMINAL REVISION CASE No.2010 of 2005

Date: 21.09.2017

YVL