

THE HON'BLE SRI JUSTICE P. KESHA RAO
CRIMINAL REVISION CASE NO. 1218 OF 2005

ORDER:

There is no representation on behalf of the petitioner. As a matter of fact, even on 13.8.2018 and 30.8.2018, there was no representation. Therefore, the matter is posted today under the caption, "For dismissal". Even today also, there is no representation on behalf of the petitioner.

2. The present Criminal Revision Case is filed questioning the judgment passed in CrI.A.No.140 of 2004 dated 26.7.2005 on the file of the Court of V Additional District and Sessions Judge (FTC) Guntur confirming the judgment in S.C.No.820 of 2001 dated 22.3.2004 on the file of the Court of the II.Additional Senior Civil Judge-cum-Assistant Sessions Judge, Guntur, convicting the petitioner for the offence under Section 498-A IPC.

3. The case of the prosecution is that Accused No.1 married the deceased Sk.Basheerun in the year 1984. Out of the wedlock they were blessed with two sons and a daughter. Accused No.1, at the instigation of Accused No.2, used to harass the deceased and subjected her to cruelty. In the year 1992, the accused sent the deceased to her parents house for her last delivery. When the deceased was in her parents

house, Accused No.1 married another woman by name Naseema Bee at the instance of Accused No.2. After coming to know, the deceased filed a case against Accused No.1. Subsequently, the same was compromised and the case was withdrawn and Accused No.1 took the deceased along with him to Tamilnadu. However, Accused No.1 continued the harassment and subjected the deceased to cruelty. Unable to bear the same, the deceased along with her three children returned back to Guntur. During Ramzan festival, Accused No.1 came to Guntur and quarrelled with the deceased and went away declaring that he married another woman and he would continue to live with her. Therefore, on 15.4.2001, the deceased felt dejected, poured kerosene on herself and set fire at her parents' house and sustained burns. She died on 16.4.2001 at 7.45 p.m. In connection with the same, a case in Cr.No.85 of 2001 was registered under Sections 498-A and 306 IPC. After the death of the deceased, inquest was held over the dead body in the presence of LW-13 and others and the body was sent for post-mortem. LW-9 conducted autopsy and issued a post-mortem certificate and LW-12 SI of Police took up investigation and filed charge sheet for the offence under Sections 498-A and 306 IPC against the accused. Learned Magistrate, after taking cognizance of the offences against the

accused, numbered the same as P.R.C.No.57 of 2001. On appearance of the accused, they were supplied with the documents on which the prosecution relied on to prove its case, in compliance with Section 207 Cr.P.C. After hearing the accused, learned Magistrate found prima facie case against the accused for the above said offences and committed the case to the Court of Sessions, Sessions division, Guntur under Section 209 Cr.P.C. by order dated 9.10.2001. Thereafter, the District and Sessions Judge, Guntur, took the case on file vide S.C. No.820 of 2001 and made over the same to the Principal Assistant Sessions Judge, Guntur. On appearance and after hearing both the sides and on consideration of the material on record, the charge under Sections 498-A and 306 IPC was framed. The accused pleaded not guilty and claimed to be tried.

4. The prosecution, in order to bring home the guilt of the accused, examined PWs 1 to 9 and got marked Exs.P1 to P13 apart from MOs. 1 to 8. After the evidence of prosecution was closed, the accused were examined under Section 313 Cr.P.C. explaining the incriminating evidence appearing against them. The accused denied the same but have not proposed to examine any defence witnesses, but got marked Exs.D1 to D6 on their behalf. Learned Assistant Sessions Judge, Guntur,

after appreciating the material on record and analyzing the evidence, by judgment dated 22.3.2004, found A1 and A2 not guilty under Section 306 IPC and A2 under Section 498-A IPC, but A1 was found guilty for the offence under Section 498-A IPC and he was convicted and sentenced to suffer rigorous imprisonment for two years and to pay a fine of Rs.2,000/-. In default of payment of fine, simple imprisonment for two months was imposed. The detention of A1 during investigation, enquiry and trial of the case was ordered to be set off under Section 428 Cr.P.C. Aggrieved by the said judgment, Accused No.1 filed Crl.A.No.140 of 2004 on the file of the V.Additional District and Sessions Judge (FTC), Guntur. After hearing, learned Sessions Judge, dismissed the appeal, confirming the judgment of the lower Court, on 26.7.2005. Aggrieved by the same, the present Criminal Revision Case is filed.

5. From the perusal of the material on record, the evidence of PWs 1, 2 and 4 apart from the documentary evidence in the form of Ex.P13, which is the dying declaration of the deceased dated 16.4.2001, the offence under Section 498-A IPC has been proved beyond reasonable doubt against the petitioner. The important piece of evidence available on record is Ex.P13 i.e., dying declaration dated 16.4.2001 of the deceased,

recorded by PW8. A perusal of the said dying declaration would indicate that accused No.1, after second marriage, harassed the deceased and subjected her to cruelty and beat her in her stomach when she was a pregnant. As she could not bear the harassment meted out to her by the accused, she poured kerosene on herself and set fire.

6. From the above, it is clear that the deceased was forced to take such an extreme step by virtue of the harassment and cruelty meted out to her by the petitioner. Though PW8, who recorded the dying declaration was cross-examined, nothing has been elicited. Therefore, the recitals of Ex.P13 clearly establish and support the evidence of PWs 1, 2 and 4.

7. From the memorandum of grounds of revision petition, it is seen that except referring to the factual aspect, the petitioner has not urged any grounds warranting interference of this Court for exercise of the limited jurisdiction under Section 397 and 401 of Cr.P.C. In revision, the scope of interference is very limited as held by this Court and the Hon'ble Apex Court in catena of judgments. From the material on record which includes the impugned judgment in the present Criminal Revision Case, there is no perversity or illegality on the face of it. Therefore, there are no merits in the Criminal Revision Case and the same is liable to be dismissed.

8. Accordingly, the Criminal Revision Case is dismissed.

9. Consequent to the dismissal of the present Criminal Revision Case, learned II.Additional Senior Civil Judge-cum-Assistant Sessions Judge, Guntur, is directed to take appropriate steps for apprehending the accused to comply with the sentence imposed in S.C.No.820 of 2001, as confirmed by this Court.

Pending miscellaneous petitions, if any, shall also stand dismissed.

Date: 7.9.2018

KPM



P. KESHAHA RAO,J