

HON'BLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE No.701 OF 2008

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner-*de facto* complainant seeking to set aside the judgment dated 07.03.2008 passed in Sessions Case No.388 of 2005 on the file of the V Additional Sessions Judge (Fast Track Court), Anantapur (for short, 'the trial Court'), wherein the trial Court acquitted the respondents-A.1 to A.3 under Section 235(1) Cr.P.C. for the offences under Sections 498A and 302 I.P.C.

2. Heard the learned counsel for the petitioner-*de facto* complainant, learned Assistant Public Prosecutor representing the 1st respondent-State and the learned counsel for the respondents-A.1 to A.3 and perused the record.

3. Learned counsel for the petitioner-*de facto* complainant would submit that the police after investigation, filed final report making no case against the respondents-A.1 to A.3; aggrieved by that a private complaint was filed; ultimately, it resulted in acquittal of the respondents-A.1 to A.3 of the aforesaid offences; there are specific allegations against respondents-A.1 to A.3 with regard to dowry harassment; the medical evidence also indicates the homicidal death and there is evidence to believe that the respondents-A.1 to A.3 have caused the death of deceased-Ramalakshamma, who is the wife of respondent-A.1; the trial Court failed to consider the same; and ultimately, prayed to convict and sentence the respondents-A.1 to A.3 for the offences under Sections 498A and 302 I.P.C. by setting aside the impugned judgment.

4. Learned counsel for the respondents-A.1 to A.3 would submit that the entire prosecution evidence is based on hearsay evidence; there are no direct material witnesses; the trial Court had rightly acquitted the respondents-A.1 to A.3; there are no circumstances to interfere with the impugned judgment; and ultimately, prayed to confirm the impugned judgment.

5. In view of the contentions raised on behalf of both sides, the point for determination is, whether the impugned judgment is liable to be set aside?

6. As per the record and the circumstances of the case, the petitioner-*de facto* complainant ought to have filed Criminal Appeal with the leave of this Court. As per the material on record, the prosecution examined P.Ws.1 to 4 and got marked Exs.P.1 to P.4. P.W.1-Lakshminarayana and P.W.2-D.Nagalinga are the real brothers, P.W.3-B.Chinnamma is the mother of the deceased and P.W.4 is the doctor who conducted autopsy over the dead body of the deceased. P.Ws.1 to 3 have categorically deposed before the trial Court that the deceased was subjected to demand of additional dowry, the respondent-A.1 intended to marry another girl, since the deceased was not bearing any children, and harassed the deceased-Ramalakshamma and ultimately, A.1 to A.3 have caused her death. P.W.2 and P.W.3 have also deposed on similar lines. As per the defence set up by the accused, A.1 was not available in the house on 29.06.1990. Having come to know the death of his wife, A.1 went to the house and saw her dead body. Thereafter, the accused No.1 lodged a report with the police and the police registered a case in Crime No.97 of 1990 of Anantapur Rural Police Station under Section 174 Cr.P.C. The certified copy of the F.I.R. was also filed. P.W.1 had lodged three reports marked as Exs.P.1 to P.3, wherein it is alleged that the

deceased-Ramalakshamma was done to death during night hours and P.Ws.1 to 3 came to know the same through somebody. Though P.Ws.1 to 3 deposed about the demand of additional dowry, they did not state the quantum of amount demanded and the dates on which they demanded additional dowry and they did not give quantum of amount demanded as additional dowry. Exs.P.1 to P.3 reports lodged by P.W.1 also silent about the dates and amounts demanded as additional dowry by the respondents-A.1 to A.3. There are no independent witnesses to support the case of P.Ws.1 to 3. As per the evidence of P.W.4-Dr. G.Parvathamma as per the photocopy of post-mortem examination certificate marked as Ex.P.4, there is mention that the death is homicidal. No inquest report was marked. No witness, who was present at the time of conducting autopsy over the dead body, was also examined. The police found the case to be a false one and filed final report accordingly. After lapse of three years time, when a private complaint was lodged by P.W.1, the impugned Sessions Case was numbered and tried. When there is no specific mention of demand of additional dowry and when there are no details of the harassment meted out to the deceased either in the oral or documentary evidence, it is not safe to consider the submissions made on behalf of the petitioner-*de facto* complainant. The prosecution has to prove the case beyond all reasonable doubt. There is no clinching or unimpeachable evidence on record to substantiate the charges framed against the respondents-A.1 to A.3 for the offences under Sections 498A and 302 I.P.C. Under these circumstances, the respondents-A.1 to A.3 are entitled for the benefit of doubt. The Court below had given reasons in acquitting the respondents-A.1 to A.3. There is no infirmity in the impugned judgment. There is nothing to take a different view. The Criminal Revision Case is devoid of merit and it is liable to be dismissed.

7. In the result, the Criminal Revision Case is dismissed.
Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

Dr. SHAMEEM AKTHER, J

Date: 03-04-2018

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