

THE HON'BLE DR. JUSTICE SHAMEEM AKTHER

CRIMINAL REVISION CASE NO.1446 of 2006

ORDER:

Heard the learned counsel for the petitioner-defacto complainant and the learned Assistant Public Prosecutor for the respondent-State. There is no representation for the unofficial respondents-A.1 to A.5. It is an old matter of the year 2006. It can be disposed of on merits.

2. This Criminal Revision Case under Sections 397 and 401 Cr.P.C. is directed against the judgment dated 29.07.2006 in C.C. No.359 of 2003 on the file of the Judicial Magistrate of First Class, Metpally, whereby the unofficial respondents-A.1 to A.5 are found not guilty of the offence punishable under Section 498A IPC and accordingly acquitted of the same.

3. Learned counsel for the petitioner would submit that there is specific evidence of P.Ws.2, 3 and 4 with regard to the demand of additional dowry and causing mental and physical torture to P.W.1; that P.W.1, who is none other than wife of respondent-A.1, categorically deposed harassment meted out to her by the accused; that the Court below did not appreciate the evidence on record in proper perspective and erroneously acquitted the accused, and ultimately, prays set aside the impugned judgment and convict the accused.

4. Now the point that arises for determination is whether the findings of the court below are legal, proper and correct?

5. P.W.1 is wife of A.1. P.Ws.2 and 3 are parents of P.W.1. P.Ws.4 and 6 are elders who convened panchayat. A.2 is mother of A.1. A.3 to A.5 are daughters of A.2.

6. The evidence of P.W.1 reveals that she married to A.1. At the time of the marriage, her parents gave Rs.50,000/- and 1 tula gold as dowry to A.1, and on the day of marriage itself, her father P.W.2 paid the amount, and that she joined the company of A.1 and in-laws immediately and all of them were residing under one roof. It is her further evidence that she led marital life for about 6 months in the house of the accused and thereafter A.1 bet her and demanded Rs.50,000/- as additional dowry from her parents; A.2 used to tease and abuse her for every small work, and A.3 to A.5 used to instigate A.1 to beat and encourage him to demand additional dowry and advised him to neck out P.W.1 from their house. It is her further evidence that A.1 used to abuse her as 'Bondapedutha' and comment her as 'Enduku bathukuthunnavu'. She further deposed that A.1 to A.5 used to ask her to bring the additional dowry otherwise give divorce, and that 5 or 6 days prior to lodging the report in this case, there was a panchayat at the instance of elders and A.1 took her back to his house giving an undertaking before elders that he would not beat her in future, but on the same day, A.1 beat her and insisted her to give divorce.

7. There is corroboration in the evidence of P.Ws.2 and 3, who are parents of P.W.1, with regard to the beatings, the panchayat and the alleged harassment meted out to P.W.1 by A.1. Further, there is also evidence of P.W.4 that he mediated the panchayat and A.1 demanded additional dowry of Rs.50,000/-, and elders advised him to treat P.W.1 amicably. There is also specific evidence of

P.W.4 that A.1 demanded Rs.50,000/- failing which he threatened her to give divorce.

8. Coming to defence evidence, A.1 examined himself as D.W.1 and Ex.D1-certified copy of divorce petition and Exs.D.2 & D.3-certified copies of order and decree were exhibited on his behalf. It is exhibited through the evidence of A.1 as D.W.1 that divorce was obtained by him under Ex.D2. D.W.2, who is stated to be elder to the panchayat in the matrimonial dispute between P.W.1 and A.1 stated in his evidence that during the said panchayat, there was no discussion with regard to demand of additional dowry. The decree of divorce under Ex.D3 is an *ex parte* decree. There is mention in the evidence of P.W.1 that the A.1 beat her in the presence of her parents in her parental house. P.W.2 and 3, parents of P.W.1, did not depose anywhere in the evidence that P.W.1 was beaten at their house in their presence. It is mentioned in the evidence of P.W.3 that A.1 did not come to their house. Therefore, A.1 beating P.W.1 at her parents' house is false. Several circumstances were narrated by P.W.1 with regard to mental and physical torture and the harassment alleged to have been meted out to her by A.1. P.Ws.2 and 3 did not corroborate those material allegations. Even P.W.4, an elderly person did not corroborate the instances, including demand of additional dowry stated by P.W.1. Though P.W.4 stated with regard to the alleged demand of additional dowry of Rs.50,000/- in a panchayat held, D.W.2, another panchayat elder, did not admit such a demand. The decree of divorce granted in favour of A.1 is not challenged. There are inconsistencies in the evidence of prosecution witnesses. The evidence on record creates suspicion/doubt with regard to the alleged physical and

mental torture as well as demand of additional dowry. An implicit reliance cannot be placed on the evidence of material prosecution witnesses to find the accused guilty of the offence with which they are charged. The requirements to punish the accused for the offence punishable under Section 498A IPC are not established beyond all reasonable doubt. The court below did not omit any admissible evidence or act upon inadmissible evidence. There is no miscarriage of justice. The revision fails and is liable to be dismissed.

9. In the result, the Criminal Revision Case is dismissed.

24.04.2018
DRK



(Dr. Shameem Akther, J)

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DRK

24.4.2018