

SMT. JUSTICE T.RAJANI

Criminal Appeal No.1742 of 2007

JUDGMENT:

This appeal is preferred against the judgment dated 10.07.2006 passed in Criminal Appeal No.60 of 2005 by the V Additional District and Sessions Judge, Medak at Sangareddy, (hereinafter referred to as “the lower appellate Court”) by virtue of which, the lower appellate Court allowed the appeal, which was filed by the appellant/accused therein against the judgment of the conviction for the offence under Section 498-A and 506 IPC of the learned Additional Judicial Magistrate of First Class, Sangareddy, (hereinafter referred to as “the trial Court”).

The facts of the case, in brief, are that on 25.11.2001 the complainant got married with the accused and dowry was given at the time of the marriage. After a week of her marriage, the accused started harassment to the complainant mentally and physically, with a demand of additional dowry of Rs.1,00,000/- and a scooter, saying that at the time of the divorce, he paid compensation to his wife, and he also insisted the complainant to scribe on a paper, that she is only responsible for her death. Though she refused for the same, the accused obtained her signatures on two blank papers. After 15 days of her marriage, the complainant went to her parents' house and informed them regarding the harassment and demand of the accused. In the month of December, 2001, when the accused went to their house, to take back his wife, the parents of the complainant and her younger brother questioned him about the harassment. The accused confessed his guilt and requested to pardon him. Believing his words, they sent the complainant along with him, but the accused continued his harassment as before. In the month of February, 2002, on one day at 10:00 a.m., the accused poured kerosene on her and lighted the gas stove and burnt two of her old sarees and said that if she does not bring additional dowry,

the same thing will happen to her. The complainant escaped from the accused and took shelter in other side portion of their house in which her old aged in-laws are residing. On the next day, she informed to her parents and they took her to their house and since then, she is residing with her parents' house and lodged a complaint, which was registered as Crime No.2 of 2003 for the offence under Sections 498-A and 506 IPC.

During the course of investigation, statements of the witnesses were recorded and after concluding the investigation, charge sheet was laid for the same offences. On appearance of the accused before the trial Court and after completing all the required legal formalities and after framing the charges for the same offences and after recording the plea of not guilty of the accused, the trial Court conducted the trial, during which, P.Ws.1 to 5 were examined and Exs.P.1 to P.4 were marked, on behalf of the prosecution. After concluding the prosecution's evidence, the accused was examined under Section 313 Cr.P.C., and he denied the evidence of the prosecution and reported no evidence on his behalf.

The learned trial Court, on appreciating the evidence on record, passed the judgment convicting the accused for both the offences, against which, the accused went in appeal and in the appeal, the judgment of the learned trial Court was set aside. Impugning the judgment of the lower appellate Court, the present appeal has been preferred by the State, on the grounds that the lower appellate Court ought to have seen that it is settled principle that the sole testimony of the victim is sufficient in matrimonial disputes and the harassment is within four walls and it ought to have believed the evidence of P.W.1.

Heard the learned Public Prosecutor for the appellant, State. On service of notice, though the vakalat is filed on behalf of the respondent, there is no representation on his behalf on the date of hearing the matter.

The learned Public Prosecutor submits that evidence of P.W.1 can be considered, for convicting the accused.

The point that arises for consideration is whether the impugned order is liable to be confirmed or set aside.

Point: The lower appellate Court considered the conduct of P.W.1 in not lodging a report with regard to the accused burning her two sarees in the month of February, 2002 and doubted the veracity of the P.W.1. This Court does not find any infirmity in the said reasoning of the lower appellate Court. It is natural that even if the said act of accused is not reported to the Police, the complainant would at least report the same to her parents and well-wishers. The appreciation of the lower appellate Court that the evidence of P.Ws.2 and 3 did not corroborate the evidence of P.W.1, with regard to the above aspect, also cannot be found fault with. Hence, the disbelief entertained by the lower appellate Court with regard to the said incident is based on valid probabilities. The lower appellate Court also relied on the evidence of P.Ws.3 and 4, who did not speak about the demand of scooter. The delay in lodging the report was also taken as a factor, belying the evidence of P.W.1. The complaint shows that the complainant left the house of the accused in the month of February, 2002, but the crime was registered only in the year 2003. Hence, the said fact also would throw ample doubt on the evidence of P.W.1. The law is well settled that when two views are possible, the view in favour of the accused has to be taken and though there is possibility of arriving at a different conclusion, a judgment of the acquittal should not be disturbed. Further, with regard to the offence under Section 506

IPC., the lower appellate Court found that absolutely there is no evidence in proof of said allegation. Even at the stage of appeal the learned Public Prosecutor is not in a position to point out any evidence with regard to the said charge. Hence, in view of the above, this Court did not find any reason to interfere with the judgment of the lower appellate Court and therefore, this appeal is liable to be dismissed.

Accordingly, in the result, this criminal appeal is dismissed. As a sequel, miscellaneous applications, if any pending, shall stand closed.

Date: 03.10.2018
LSK

JUSTICE T.RAJANI

