

HON'BLE SRI JUSTICE P. KESHAVA RAO

CRIMINAL REVISION CASE No.1434 of 2018

ORDER:

Heard the counsel for the petitioner as well as the respondents.

The present revision case is filed against the judgment dated 15.03.2018 in CrI.A.No.665 of 2016 on the file of the Court of the III Additional Sessions Judge, Guntur, confirming the judgment in C.C.No.674 of 2015 dated 03.11.2016 on the file of the Court of Special Judicial Magistrate of First Class, Prohibition and Excise, Guntur, in acquitting respondent Nos.2 and 3 herein for the offences under Section 498-A IPC and Sections 3 and 4 of the Dowry Prohibition Act (for short, "the Act").

Originally, the case of the prosecution is that PW.1, Shaik Shareefa, was married to A1 on 05.03.1990 as per the customs prevalent in their community. At the time of marriage, Rs.50,000=00, 15 tulas of gold ornaments, one TVS moped and other house hold articles were given to A1 towards dowry. A1 is working as a meat seller. Out of the wedlock, they were blessed with one son and two daughters. Since the marriage of PW.1, A1 has been harassing her physically and mentally. A1 used to beat the complainant and his daughters. He abused his daughters to do prostitution and earn money. In fact, he poured kerosene on PW.1 on three occasions, but she was rescued by her daughters. A2, who is the nephew of A1, and A1 together harassed the complainant to bring Rs.6,00,000/- towards additional dowry from

her parents. A1 converted his house into house of gambling. Unable to bear the torture meted out to her, on 14.11.2015, PW.1 along with her daughters came out of the house and went to Women Police Station, Guntur Urban, and gave a report. Pursuant to the said report, a crime was registered vide FIR.No.105 of 2015 for the offence under Section 498-A IPC and Sections 3 and 4 of the Act. After investigation, a charge sheet was filed. The trial Court, after taking cognizance of the said offences, numbered the case as C.C.No.674 of 2015. After conclusion of the trial, the said C.C. was dismissed by holding that respondent Nos.2 and 3 herein/A1 and A2 are found not guilty for the offences punishable under Section 498-A IPC and Section 4 of the Act and they are acquitted of the same under Section 248(1) Cr.P.C. Aggrieved by the same, the petitioner filed an appeal in CrI.A.No.665 of 2016 on the file of the III Additional Sessions Judge, Guntur. After arguments, the said appeal was dismissed by orders dated 15.03.2018, confirming the acquittal of respondent Nos.2 and 3. Aggrieved by the said judgment, the present revision case is filed.

Learned counsel appearing for the petitioner would contend that both the Courts below ought to have believed the evidence adduced on behalf of the petitioner and would have convicted respondent Nos.2 and 3 for the offences punishable under Section 498-A IPC and Sections 3 and 4 of the Act. In fact, the basic ingredients of the offence under Section 498-A and Section 4 of the Act were established, but on erroneous view of law and fact respondent Nos.2 and 3 are acquitted. PWs.1 and 2 being the

victims of harassment have categorically deposed about the harassment meted out to them in the hands of respondent Nos.2 and 3. However, relying on some technicalities, the same cannot be disbelieved.

Per contra, learned counsel appearing for the respondents would contend that the scope of Section 397 Cr.P.C. is very limited. In fact, in revision an order of acquittal cannot be converted into conviction. When an acquittal is given, there is a double presumption in favour of the accused i.e, presumption of innocence available to the accused under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by the competent Court of law and secondly, having secured an acquittal, the presumption of his innocence is further fortified by the trial Court.

Having heard both the counsel and a perusal of the record would reveal that the allegations made in Ex.P1, report, against A1 are very vague in nature and they do not establish any offence much less the offence as alleged. No material is placed by PWs.1 and 2 to establish that any amount was paid to A1 at the time of marriage. According to PWs.1 and 2, when a Nikhanama was executed evidencing the customary gifts given to A1 at the time of marriage, it is the best piece of evidence available to establish the guilt of the accused. However, PW.1 has not chosen to file the said Nikhanama. When the prosecution has specifically averred that A1 used to ill-treat PW.1 at the instance of A2, the prosecution must rely on and establish with reference to specific instances of

harassment. Even on this allegation, no specific evidence is adduced except a bald statement. Therefore, both the Courts below, after appreciating the evidence in this regard, found that no case is made out against the accused for the commission of offence under Section 498-A IPC and Section 4 of the Act. Since the scope of revision under Sections 397 and 401 Cr.P.C., is very limited relating to perversity of any finding or, without jurisdiction, no other ground can be canvassed, more particularly, when both the Courts below acquitted the accused, the question of converting the same into a conviction may not arise.

In these circumstances, this Court is of the opinion that there are no merits in the criminal revision case and the same is liable to be dismissed.

Accordingly, the criminal revision case is dismissed.

Miscellaneous petitions, if any, shall also stand dismissed.

P. KESHAVA RAO, J

Date: 22.06.2018.
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