

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2437 of 2019

- Smt. Y. Lavanya Reddy W/o Y. Murli, Aged About 35 Years
Resided At C/o D. Simhachalam Reddy, Panchsheel Nagar
(East) , Charoda, Tehsil Patan, District Durg, Chhattisgarh.,

---- Petitioner

Versus

1. Y. Murli S/o Late Y. Krishna Reddy, Aged About 38 Years
resided att House No. 26, Door No. 44-31-86/37, Suri Babu
Nagar, Kailashpuram, Police Station - 5th Town,
Kanchanapalam, Vishakapatnam, Andhra Pradesh.,
District :Visakhapatnam, Andhra Pradesh
2. Smt. Y. Parvati Reddy W/o Late Y. Krishna Reddy Aged
About 63 Years Resided At House No. 26, Door No. 44-31-
86/37, Suri Babu Nagar, Kailashpuram, Police Station - 5th
Town, Kanchanapalam, Vishakapatnam, Andhra Pradesh.,
District :Visakhapatnam, Andhra Pradesh
3. Smt. Y. Padmaja W/o Tata Rao Aged About 36 Years
Resided At House No. 26, Door No. 44-31-86/37, Suri Babu
Nagar, Kailashpuram, Police Station - 5th Town,
Kanchanapalam, Vishakapatnam, Andhra Pradesh.
4. Ku. Y. Vijaya (Dead) S/o Late Y. Krishna Reddy, Resided At
House No. 26, Door No. 44-31-86/37, Suri Babu Nagar,
Kailashpuram, Police Station - 5th Town, Kanchanapalam,
Vishakapatnam, Andhra Pradesh., District : Visakhapatnam,
Andhra Pradesh

---- Respondents

For petitioner : Mr. Rohitashva Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma

ORAL ORDER

28-01-2020

1. Heard on I.A.No.1 of 2019, which is an application for condonation of delay of 182 days in filing the instant petition.
2. For reasons mentioned in the application, the application is allowed and delay of 182 days in filing the instant petition is condoned.
3. Also heard on application for leave to appeal filed under Section 378(4) of the Code of Criminal Procedure, 1973.
4. This petition is directed against the judgement dated 7-3-2019 passed by the Judicial Magistrate First Class, Bhilai-3, in C.I.S. No.2065 of 2013 wherein the said court acquitted the respondents for charge under Sections 498-A read with Section 34, 294, 323 and 506-B of IPC, 1860 and Section 4 of the Dowry Prohibition Act, 1961.
5. In the present case, petitioner is a complainant who is wife of respondent No.1. As per version of the petitioner, respondents demanded money from her as dowry and harassed her for illegal demand and again they abused, threatened and assaulted her. The matter was reported by the complainant and the respondents were charge-sheeted. After completion of the trial, the trial court acquitted the respondents as mentioned above.
6. Learned counsel for the petitioner would submit that the trial court has overlooked the material evidence and recorded finding on the basis of imagination, therefore, same is liable to be set aside.

7. I have gone through the record of the court below in which judgement has been passed.

8. Complainant (PW/1) Smt. Y. Lavanya Reddy, D. Laxmi Reddy (PW/2) and D. Simhachala Reddy (PW/3) are witnesses of the offence in question. From the evidence of the complainant, it is clear that after marriage she was blessed with one daughter and her father gifted her almirah, bed, golden and silver ornaments and Rs.25,000/- as cash. This witness deposed that respondents demanded Rs.2,00,000/- or land of her share. The other witnesses deposed on the same line. After evaluating the entire evidence the trial court recorded finding that demand which amounts to consideration for marriage is dowry as defined in Section 2 of the Dowry Prohibition Act, 1961. Any other demand as mentioned by the complainant's witnesses is not dowry because same is not demanded as consideration of marriage. The view taken by the trial court is one of the plausible view and this court has no reason to reverse the said finding. In view of the above, charge under Section 4 of the Dowry Prohibition Act, 1961 is not established. The trial court further opined that there is no connecting piece of evidence regarding harassment on the part of any of the respondents for illegal demand. The statement made by the witnesses is bald and general statement and there is nothing to which substantiate any overt act on the part of any of the respondents specifically which may be termed as harassment. The trial court after evaluating the evidence

recorded finding that charge under Section 498-A of the IPC is also not established.

9. After going through the record, it is not a case where interference of this court is required in the judgement of the trial court. From the evidence it is not established that any obscene word was used in public place by any of the respondents or they threatened the complainant and they were determined to execute their threat or they caused simple injury. Finding of the trial court is one of the plausible views. It is settled that if two views are possible, the view which is favourable to the respondents/accused should be accepted, therefore, this court has no reason to record contrary finding regarding commission of offence. It is not a case where respondents should be called for full consideration of this petition.

10. Accordingly, application for grant of leave to appeal is rejected. Consequently, the instant petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

Raju