

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**WEDNESDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY ONE**

PRESENT

THE HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL APPEAL NO: 365 OF 2010

Criminal Appeal filed Under Section 378 (1) and (3) of Cr.P.C (Leave and Appeal) against the Judgment dated. 15.04.2009 made in CrI.A.No.90 of 2008 on the file of the Court of the Metropolitan Sessions Judge, at Hyderabad.

Between:

The State of Andhra Pradesh, represented by the Public Prosecutor High Court of Andhra Pradesh, Hyderabad.

...Appellant/Petitioner

AND

L. Venkatapathi Rao. S/o. Rama Chandralah. Aged about.45 years, R/o. H.No. 21, G.Block Colony, Dr. A.S. Rao Nagar Colony, Kapra,

...Respondent/Accused

Counsel for the Appellant: PUBLIC PROSECUTOR (TG)

Counsel for the Respondent: SMT CH. LAXMI CHAYA

The Court made the following: JUDGMENT

HONOURABLE JUSTICE G. SRI DEVI

CRIMINAL APPEAL No.365 of 2010

JUDGMENT :

This appeal has been preferred by the State, aggrieved by the Judgment, dated 15.04.2009, passed by the Metropolitan Sessions Judge, Hyderabad, in Criminal Appeal No.90 of 2008, whereby, the respondent herein was acquitted of the charges levelled against him for the offences under Section 498-A of IPC and under Sections 4 and 5 of Dowry Prohibition Act, by reversing the conviction judgment, dated 03.03.2008, passed by the X Additional Chief Metropolitan Magistrate, Secunderabad, in C.C.No.198 of 2007.

2. Heard learned Public Prosecutor appearing for the State and the learned counsel appearing for the respondent/accused, and also perused the record.

3. The case of the prosecution was that the *de facto* complainant was married to the accused on 22.10.2006, by giving Rs.1 lakh cash, 20 tolas of gold and household articles as dowry. Soon after the marriage, the accused started harassing the *de facto* complainant demanding her to bring additional dowry and also demanded to register in his name, the house constructed by the parents of *de facto* complainant. Being unable to bear the harassment, the *de facto* complainant lodged a complaint against the accused on 28.10.2003, basing on which, a case was registered against him for the offences under Section 498-A of IPC and under Sections 4 and 5 of Dowry Prohibition Act.

4. Before the trial Court, prosecution examined PWs.1 to 5 and marked Exs.P-1 to P-12.

5. The trial Court, after examining the evidence adduced by the prosecution, has acquitted the accused of the charges levelled under Sections 4 and 5 of Dowry Prohibition Act, however, convicted him for the offence under Section 498-A of IPC and sentenced to undergo simple imprisonment for a period of two years and to pay a fine of Rs.3,000/-.

6. Aggrieved of the judgment of conviction, the accused preferred appeal in CrI.A.No.90 of 2008 before the Metropolitan Sessions Judge, Hyderabad. The 1st appellate Court has observed that the present case has been foisted against the accused keeping in view the civil dispute between the parties with regard to house property in O.S.No.210 of 2003 on the file of I-Additional Senior Civil Judge, Ranga Reddy District. It has also observed that apart from interested testimony of prosecution witnesses, no independent witness was examined. The first appellate Court has further recorded that PW-2 is not a direct witness for the harassment of accused as alleged by his daughter PW-1. Thus, the first appellant Court has opined that the prosecution has failed to prove the ingredients under Clause (b) of explanation to Section 498-A of IPC against the accused. Accordingly, the appeal was allowed setting aside the judgment of conviction and sentence passed by the trial Court. Hence, the State has preferred the present appeal.

7. The learned Public Prosecutor has contended that the first appellate Court has erred in disbelieving the evidence of prosecution witnesses and it has erroneously set aside the well considered conviction judgment of trial Court. Accordingly, he prayed to set aside the judgment of first appellate Court.

8. The learned counsel for the respondent/accused, on the other hand, contended that the trial Court has not considered the evidence of prosecution witnesses in correct perspective and has erroneously convicted the accused for the offence under Section 498-A of IPC, whereas, the first appellate Court, considering the civil disputes among the parties and also the interested testimony of prosecution witnesses, has rightly set aside the judgment of trial Court. He prayed for dismissal of appeal preferred by the State.

9. The material on record discloses that the prosecution has failed to prove the ingredients of the offence under Section 498-A of IPC against the respondent/accused. The record discloses that there are property disputes between the families of accused and the *de facto* complainant and cases were also filed by them. The first appellate Court has rightly recorded that the prosecution has failed to examine the independent witnesses and the trial Court, by merely relying on the interested testimony of the witnesses, has erroneously convicted the accused, ignoring the other disputes between the parties.

10. Therefore, this Court is of the view that there is no infirmity or illegality in the Judgment of the first appellate Court and this appeal is liable to be dismissed.

11. The Criminal appeal is accordingly dismissed. Pending miscellaneous applications, if any, shall stand closed.

SD/-C.VENKATESHWARULU
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Metropolitan Sessions Judge, at Hyderabad, Ranga Reddy District.
2. The Station House Officer, Kushaiguda Police Station, Hyderabad.
3. Two CCs to the Public Prosecutor, High Court for the State of Telangana, at Hyderabad [OUT]
4. One CC to Smt. CH. Laxmi Chaya, Advocate [OPUC]
5. Two CD Copies

MMK
gbr

[Signature]

HIGH COURT

DATED:10/02/2021



JUDGMENT

CRLA.No.365 of 2010

DISMISSING THE CRIMINAL APPEAL.

PRK
05/03

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