

THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI

CRIMINAL REVISION CASE No.33 of 2007

ORDER:

This Criminal Revision Case, under Sections 397 and & 401 of Cr.P.C., is filed by the petitioner/de-facto complainant, challenging the judgment, dated 06.11.2006, passed in C.C.No.429 of 2001 by the XIII Additional Chief Metropolitan Magistrate (Mahila Court), Hyderabad, whereby, the Court below acquitted the respondent No.2 herein/accused under Section 248(1) of Cr.P.C., for the offences under Sections 498A of IPC and Sections 4 and 6 of the Dowry Prohibition Act, 1961.

2. Heard the learned counsel for the petitioner/de-facto complainant, the learned Assistant Public Prosecutor appearing for the respondent No.1-State and perused the record. There is no representation for the respondent No.2/accused.

3. The revision petitioner herein is the de-facto complainant and the respondent No.2 herein is the accused in the subject C.C.No.429 of 2001. For the sake of convenience, the parties herein shall be referred as arrayed before the trial court.

4. The petitioner lodged a report with the police concerned on 23.09.2001, stating that her marriage with the accused took place on

12.07.2000. It was a love marriage. Soon after the marriage, the accused started harassing the petitioner mentally and physically demanding additional dowry. The accused neglected to look after the health of the petitioner, even during her pregnancy. The couple were blessed with a male child. On 05.04.2001, the accused came to the hospital and abused the petitioner. At a point of time, the accused throttled the neck of father of the petitioner and created a lot of nuisance by abusing her parents. The accused used to threaten the petitioner over phone that he would commit suicide. On 12.04.2001, counseling was held and the couple were advised to live together without anybody's interference. However, the accused did not mend his attitude and on 21.09.2001, the accused attempted to kill the petitioner by throttling her neck. However, she could escape by raising alarm, which drew attention of the neighbours. When the accused demanded a new car in the place of old car, the father of the petitioner contributed Rs.1.50 lakhs for the same. Further, the parents of the petitioner used to provide financial assistance to the accused. However, the accused threatened the parents and relatives of the petitioner with dire consequences and assaulted them. Apprehending danger to her life and the life of the newly born child, the petitioner went to her parents' house on 21.09.2001. However, the accused reached there on the same day in drunken state and

created a lot of nuisance and the petitioner requested to take legal action against the accused.

5. Basing on the said report, PW.7-Inspector of Police, registered a case in Crime No.87 of 2001 for the offences under Sections 498A of IPC and 4 & 6 of the Dowry Prohibition Act, 1961; completed investigation and laid charge-sheet before the Court below; the Court below took cognizance against the accused for the said offences; examined him under Section 239 of Cr.P.C. on his appearance; framed charges against him for the said offences, read over and explained to him to which, the accused pleaded not guilty and claimed to be tried.

6. To substantiate the charges levelled against the accused, the prosecution has examined PW.1 to PW.7 and got marked Exs.P1 to P18. On behalf of the accused, DWs.1 and 2 were examined and Exs.D1 to D.16 were marked.

7. The Court below, after analyzing the entire evidence on record, acquitted the accused for the offences under Sections 498A of IPC and Sections 4 & 6 of the Dowry Prohibition Act, holding that the prosecution utterly failed to prove the charges levelled against him. Aggrieved by the same, the de-facto complainant filed this Criminal Revision Case.

8. Learned counsel for the revision petitioner/de-facto complainant would contend that the impugned judgment is unsustainable in the eye of law. Though there is ample evidence on record to prove the guilt of the accused for the offences under Sections 498A of IPC and Sections 4 and 6 of Dowry Prohibition Act, the Court below erroneously concluded that the prosecution failed to prove its case. The subject complaint lodged by the petitioner is self-explanatory, which clearly discloses the harassment meted out to her by the accused. The petitioner was harassed by the accused, mentally and physically. The accused also attempted to do away with the life of the petitioner and also threatened to kill her child. Further, the accused intentionally deceived the petitioner to extract additional dowry from her parents, by suppressing the fact that he belongs to Christian community before marriage. All the necessary ingredients of Sections 498A of IPC and Sections 4 & 6 of Dowry Prohibition Act have been made out against the accused. The impugned judgment suffers from illegality and impropriety and warrants interference of this Court under Sections 397 & 401 of Cr.P.C. and ultimately prayed to allow the Criminal Revision Case, as prayed for.

9. In view of the above submissions, the point that arises for determination in this Criminal Revision Case is as follows:

“Whether the impugned judgment, dated 06.11.2006, passed in C.C.No.429 of 2001 by the XIII Additional Chief Metropolitan Magistrate (Mahila Court), Hyderabad, is legally sustainable?”

POINT:-

10. Before proceeding further, it is apt to state that the object of the Revisional jurisdiction is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the Court to scrutinize the orders, which, on the face of them, bear a token of careful consideration and appear to be in accordance with law. Revisional Jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the findings recorded are based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. Another well accepted norm is that the Revisional jurisdiction of the higher Court is very limited and cannot be exercised in a routine manner. Revisional Court has to confine itself to the legality and propriety of the findings of the subordinate Court and as to whether the subordinate Court acted within its jurisdiction. A Revisional Court has no jurisdiction to set aside the findings of facts recorded by the learned Judge and impose and substitute its own findings. Sections 397 to 401 of Cr.P.C., confer only limited power on the Revisional

Court to the extent of satisfying about the legality, propriety or regularity of the proceedings or orders of the lower court and not to act like appellate Court for other purposes including the recording of new findings of fact on fresh appraisal of evidence.

11. In the instant case, though PW.1 stated in her evidence that her father gave Rs.1.5 lakhs to the accused to purchase a second hand car, she did not adduce any evidence to substantiate the same. On the other hand, the accused filed Ex.D.11 showing agreement between him and Maruti Countrywide Auto Finance Service Limited for Rs.1,10,000/- for purchasing a car. Further, PW.1 in her evidence stated that the accused harassed her both physically and mentally and several times threatened to kill her by squeezing her neck and when she raised alarm, the neighbours came and rescued her. This is a mere statement, which does not contain the date and time of the alleged offence and the persons who rescued her, hence cannot be acted upon. Further, the statement of PW.1 that she underwent caesarian section on 30.03.2001 two months prior to her expected date of delivery due to physical and mental harassment meted out in the hands of accused cannot be accepted for the reason that she gave the first report on 12.04.2001 by which time, she had already undergone caesarian section. Further, PWs.2 to 4 and 6 are father, mother, paternal uncle and maternal uncle of the petitioner and

certainly, they are interested witnesses. It is true that the evidence of interested person(s) can also be considered, provided such evidence is corroborated by other evidence on record. The only independent witness examined in this case is PW.5. He did not support the prosecution case. He categorically deposed that he has no personal knowledge about the harassment caused by the accused. Thus, in the absence of corroboration of evidence of PWs.2 to 4 and 5 with the other evidence on record, it is unsafe to convict the accused basing on the same. Further, a careful perusal of the complaint makes it clear that the allegations levelled against the accused are general and vague. The complaint fails to establish specific allegations against the accused. Allowing prosecution in the absence of clear allegations against the accused would result in abuse of the process of law.

12. In a recent decision in **Kahkashan Kausar @ Sonam and others Vs. State of Bihar and others**¹ the Hon'ble Apex Court held as follows:

“22. Therefore, upon consideration of the relevant circumstances and in the absence of any specific role attributed to the accused appellants, it would be unjust if the Appellants are forced to go through the tribulations of a trial, i.e., general and omnibus allegations cannot manifest in a situation where the relatives of the complainant's husband are forced to undergo trial. It has been highlighted by this court in varied instances, that a criminal trial leading to an eventual acquittal also inflicts severe scars upon the accused, and such an exercise must therefore be discouraged.”

¹ 2022 SCC Online SC 162

13. Having considered the entire material placed on record, this Court is of the considered opinion that except vague and bald allegations, there are no specific allegations disclosing the complicity of the accused to prosecute him for the offences under Sections 498A of IPC and Sections 4 & 6 of the Dowry Prohibition Act. The Court below has meticulously examined the entire evidence on record and rightly concluded that the prosecution failed to prove the charges levelled against the accused. There is no illegality, impropriety or irregularity in the judgment under challenge, so as to interfere with the same by exercising revisional jurisdiction under Sections 397 & 401 of Cr.P.C. None of the contentions raised on behalf of the petitioner merit consideration. The Criminal Revision Case is devoid of merit and is liable to be dismissed.

14. Accordingly, the Criminal Revision Case is dismissed, confirming the judgment, dated 06.11.2006, passed in C.C.No.429 of 2001 by the XIII Additional Chief Metropolitan Magistrate (Mahila Court), Hyderabad.

Miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand closed.

29th April, 2022

Ksk

JUVVADI SRIDEVI, J