

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL APPEAL No.206 of 2008

JUDGMENT:

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1. This Criminal Appeal is filed by the appellant-A1 against the conviction and sentence imposed by the Sessions Judge, Mahila Court, Vijayawada, Krishna District, for the offence under Section 498-A IPC vide judgment dated 31.1.2008 in S.C.No.118 of 2005.

2. The case of the prosecution is as follows:

A2-Pinnika Bujjaiah is the father and A3-Pinnika Nagamma is the mother of A1-Pinnika Madhava Rao. A4-Pinnika Ramamohana Rao is the younger brother of A1. They all belong to Varikuntapalem village. Pinnika Savitri (hereinafter referred to as 'the deceased') is the wife of A1 and their marriage was performed on 26.7.1997. At the time of marriage, on demand made by the accused, the parents of the deceased gave cash of Rs.60,000/- towards dowry besides presenting other gold ornaments to A1 and the deceased. Soon after the marriage, the deceased was sent to her matrimonial home in Varikuntapalem village to lead marital life with A1. One year thereafter, both A1 and the deceased came to Vijayawada as A1 secured a job in a lodge and they were residing in a rented house at Santhipuram in Payakapuram. Some time thereafter, A2 to A4, who are the in-laws and younger brother-in-law of the deceased also came to Vijayawada and started living along with A1 and the deceased in their house. The deceased has no issues. On that ground, all the accused used to harass and ill-treat the deceased demanding her to bring additional dowry amount from her parents. All the accused used to harass the deceased both mentally and physically subjecting her to cruelty and A1 used to beat her at the instigation of A2 to A4. Further, all the accused did not allow the deceased even to see the dead body of her mother, who died about 3 years ago prior to the incident. She

was only allowed to attend the obsequies ceremony of her mother and at that time, the deceased informed to her family members i.e., her father, brother and sisters about the harassment of all the accused towards her to bring additional dowry. On that, her father gave Rs.1500/-, a bag of rice and clothes to the deceased and sent her to the house of the accused. Thereafter also, as usual all the accused used to harass and ill treat the deceased. Three years after the death of the mother of the deceased, her father died and even though the same was intimated to the accused, they did not send the deceased even to see the dead body of her father. Later, when the son of L.W.1-Letu Vengamma, who is elder sister of the deceased, and L.W.3-Dega Gandhi, the brother-in-law of the deceased, came to the house of the accused to take the deceased to attend the obsequies ceremonies of her father, all the accused refused to send the deceased to her parents' house and further uttered that they would not hesitate even to send the dead body of the deceased and they would never send the deceased to her parents' house. Thereby, all the accused ill-treated the deceased demanding her to bring additional dowry from her parents' house subjecting her to cruelty. Unable to bear the said harassment of the accused, the deceased committed suicide by hanging in the house of the accused on the intervening night of 30/31.1.2004. But A1 misrepresented the fact to the police that she died due to stomach-ache and gave a report to L.W.26 on 31.1.2004 at 9 a.m. Basing on that report, L.W.26 registered the case and took up investigation. Subsequently, after recording the statements of the blood relatives of the deceased, the section of law was altered from 174 Cr.P.C. to 304-B r/w 34 IPC. After completion of the investigation, charge sheet was filed against all the accused.

3. The learned II Additional Chief Metropolitan Magistrate, Vijayawada had taken cognizance of the case against A1 to A4 for the offence under Section 304-B IPC and committed the same to the Court

of Metropolitan Sessions Division, Vijayawada. The learned Sessions Judge registered the case and made over the same to the learned Sessions Judge, Mahila Court, Vijayawada for disposal.

4. The trial Court framed charges under Section 3 of the Dowry Prohibition Act, Sections 498-A and 304-B IPC against A1 to A4, read over and explained to them, for which, they pleaded not guilty and claimed to be tried.

5. During the course of trial, P.Ws.1 to 16 were examined and Exs.P1 to P11 and M.O.1 were marked on behalf of the prosecution. D.W.1 was examined on behalf of the accused.

6. On appreciation of both oral and documentary evidence, the trial Court found the appellant-A1 alone guilty for the offence under Section 498-A IPC, convicted and sentenced him to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.5,000/- in default to suffer simple imprisonment for a period of six months for the said offence, while acquitting the appellant-A1 for the charges under Section 3 of the Dowry Prohibition Act and Section 304-B IPC and while acquitting the other accused for all the charges levelled against them. Aggrieved by the conviction and sentence imposed by the trial Court against the appellant-A1 for the offence under Section 498-A IPC, the appellant filed this appeal.

7. Heard and perused the material available on record.

8. Learned Counsel for the appellant submitted that the trial Court having observed that there is no sufficient and acceptable evidence establishing the harassment and ill-treatment made by the accused, acquitted A2 to A4 for the offence under Section 498-A IPC and that there is no sufficient evidence against the appellant-A1 also to establish that he subjected the deceased to harassment and therefore, the same analogy can be adopted in the case of the appellant also.

He further submitted that there is no legal evidence to show that the appellant demanded money and harassed her and that there is no evidence before the Court that A1 demanded and insisted for additional dowry and that the conviction and sentenced imposed by the trial Court are not sustainable.

9. Learned Additional Public Prosecutor submitted that the evidence of the sisters, brother of the deceased and the neighbours goes to show that the appellant-accused No.1 harassed the deceased and that the prosecution proved the guilt of the appellant and that the conviction and sentence imposed by the trial Court are sustainable.

10. Now, the point that arises for consideration in this appeal is:

“Whether the judgment of the trial Court convicting and sentencing the appellant-A1 for the offence under Section 498-A IPC warrants any interference by this Court?”

11. **POINT:**

P.Ws.1 and 2 are the sisters of the deceased. P.W.2, who is the sister of the deceased, deposed in her evidence that when they went to the house of the deceased to bring the deceased to Sankranthi, the accused refused to send the deceased to their house and the accused told that they would send her dead body only.

P.Ws.1 to 3, who are sisters and brother of the deceased, deposed in one breath that as no children were born to the deceased, both A1 and the deceased used to quarrel and six years after the marriage of the deceased, the mother of the deceased died. But the deceased was not allowed to come to the house of her parents to see the dead body of their mother and that they only sent the deceased to attend the obsequies ceremony of their mother. From the evidence of P.Ws.1 to 3, it is evident that the appellant used to harass and ill-treat the deceased to bring money.

12. Further, the evidence of P.Ws.5, 7 and 9 is in corroboration with

that of P.Ws.1 to 3. P.W.5 stated that there were petty disputes between the accused and the deceased and about 3 or 4 months prior to the death of the deceased, while she was going to railway track, the neighbours brought her back. P.W.7, who is neighbour to the accused, deposed that the accused used to make galatas in their house. P.W.9 deposed that all the accused stayed in their house as tenants and the disputes started between the accused and the deceased. He deposed that once the deceased ran towards railway track to commit suicide and they brought her back.

13. The evidence of P.Ws.5, 7 and 9 goes to show that the deceased and the appellant used to quarrel in their house. The evidence of the above witnesses clearly establishes that A1 used to harass the deceased and the said harassment drove the deceased to commit suicide. In this regard, the evidence of the above witnesses is very consistent and corroborative. Nothing was elicited in their cross-examination so as to disprove their testimony.

14. Considering the evidence of the above witnesses, this Court is of the view that the judgment of the trial Court in convicting the appellant-A1 for the offence under Section 498-A IPC does not warrant any interference. The point is answered accordingly.

15. At this stage, the learned Counsel for the appellant prayed for taking a lenient view insofar as the sentence of imprisonment is concerned.

16. In the result, the conviction recorded by the learned Sessions Judge, Mahila Court, Vijayawada, Krishna District, against the appellant-accused No.1 in S.C.No.118 of 2005 vide judgment dated 31.1.2008, for the offence under Section 498-A IPC is confirmed. But however, the sentence of three years rigorous imprisonment imposed by the learned Sessions Judge is modified to that of six months

rigorous imprisonment, while confirming the sentence of fine and the default sentence.

17. The period already undergone by the appellant-accused No.1 shall be set off under Section 428 Cr.P.C.

18. The appellant-accused No.1 is directed to surrender before the Court concerned so as to serve the remaining sentence, if any. In default, the Court concerned is at liberty to take appropriate steps in accordance with law.

19. Accordingly, the Criminal Appeal is partly allowed. Consequently, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE RAJA ELANGO

Dated:29th July, 2016
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THE HONOURABLE SRI JUSTICE RAJA ELANGO

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