

(2003) 01 AP CK 0005

Andhra Pradesh High Court

Case No: Criminal Revision Case No. 219 of 2001

Thilari Narayana Rao

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision: Jan. 8, 2003

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 397, 401
- Penal Code, 1860 (IPC) - Section 498A

Citation: (2003) 1 ALD(Cri) 392 : (2003) 1 ALT(Cri) 482 : (2003) 2 DMC 1

Hon'ble Judges: Dalva Subrahmanyam, J

Bench: Single Bench

Advocate: M.D. Ansaruddin, for the Appellant; Public Prosecutor, for the Respondent

Final Decision: Dismissed

Judgement

Dalva Subrahmanyam, J.

The revision petitioner- 1st accused tiled the revision against the judgment of conviction and sentence in C.C. No. 61 of 1994 of the file of the III Additional Judicial First Class Magistrate, Maehilipatnam in conviction the revision petitioner 1st accused for an offence u/s 498-A, I.P.C. and sentencing him to suffer rigorous imprisonment for a period of two years and to pay a fine of Rs. 500/- in default to suffer simple imprisonment for two months as confirmed in Criminal Appeal No. 69 of 1997 on the file of the District and Sessions Judge, Machilipatnam.

2. The brief facts of the case are as follows :

One Thilari Naga Maileswari's married the revision petitioner Thilari Narayana Rao on 22.3.1089 in Venkateswaa Swamy Temple at Guduru. At the time of marriage, the parents of the defacto complainant gave Rs. 35,000/- to A1 to A3 towards dowry arid Rs. 10,000/- towards expenses. Seven months after their marriage, the only brother of the de facto complainant died. Thereafter, the accused began to demand the

victim to bring more dowry from her parents. They used to beat her. In the year 1991, Al got employment as Constable in Police Department. The de facto complainant accompanied with her husband and they lived at Nellore and Hyderabad where Al worked. During the said period, Al continued to harass his wife demanding her to bring more dowry. The de facto complainant wrote letters to her parents mentioning the harassment meted out to her at the hands of her husband. In the year 1992, the de facto complainant came to her parents house for delivery. The de facto complainant informed her parents about the harassment. The matter was placed before the elders Allam Narasimha Rao and Thota Nancharayya and in their presence Al gave an undertaking on a stamped paper to the effect that he will not do any harm to his wife. On 1.8.1993, Al brought his wife from Hyderabad to Guduru stating that they have to attend the marriage of his brother. He left his wife at her parents house at Guduru stating that he will not take her back until she brought more dowry from her parents. On 15.12.1993 when she went to her parents-in-law, A2 to A4 did not allow her to stay in their house. On 31.1.1994, a report was given to the police and a case in Cr. No. 3 of 1994 was registered u/s 498-A, I.P.C. and after investigation the complaint was laid before the III Additional Judicial First Class Magistrate, Krishna, Machilipatnam. A charge u/s 498-A, I.P.C. was framed against the accused and to substantiate the said charge, the prosecution examined P.Ws. 1 to 6 and marked Exs. PI to P8. By the time of trial the victim died. P.Ws. 1 and 2 are the parents of the de facto complainant. P.W. 3 is an independent witness. P.Ws. 4 and 5 are the mediators and they turned hostile. P.W. 6 is the investigating officer. The learned III Additional Judicial First Class Magistrate, Krishna after appreciating the oral and documentary evidence, came to the conclusion that the prosecution proved the offence u/s 498-A, I.P.C. against Al and accordingly he was convicted and sentenced. The learned Magistrate found A2 to A4 not guilty and they were acquitted. Aggrieved against the judgment of conviction and sentence, the 1st accused filed Criminal Appeal No. 69 of 1997 on the file of the District and Sessions Judge, Krishna and the learned District and Sessions Judge after appreciating the entire evidence, came to the conclusion that there are no grounds to interfere with the conviction against Al, and accordingly the appeal was dismissed. The revision filed by the State with regard to the acquittal of A2 to A4 was also dismissed.

3. Aggrieved against the judgment of conviction and sentence, the revision petitioner who is Al-Thilari Naiayana Rao filed the revision contending that the judgment of the lower Courts is contrary to law, weight of evidence and probabilities of the case. The Courts below erred in relying on the evidence of P.Ws. 1 and 2, who are no other than the parents of the de facto complainant and their evidence is interested. The Courts below ought not to have believed Exs. P2 and P3 and the evidence of P.Ws. 1 to 3 and 6 to base its conviction. For the above said reasons, the revision may be allowed.

4. Now the point for consideration is "Whether/the Courts below committed an error in coming to the conclusion that the prosecution proved the offence u/s 498-A, I.P.C. against the revision petitioner and if so, whether the revision is liable to be allowed" ?

5. The revision petitioner, who is the 1st accused married Thilari Naga Malleswari and it is the case of the prosecution that he harassed her and demanded her to bring more dowry. The accused is convicted for an offence u/s 498-A, I.P.C. Section 498-A, I.P.C. reads as follows :

498-A-Husband or Relative of Husband of a Woman Subjecting her to Cruelty-

Whoever, being the husband or the relative of the husband of a woman subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation--For the purpose of this section "cruelty" means-

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical); of the woman or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

6. To prove an offence u/s 498-A, I.P.C, the prosecution must prove that the accused harassed the victim with a view to coercing her to meet any unlawful demand for any property or valuable security. Cruelty as defined in Section 498-A, I.P.C. means any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or harassment of the woman where such harassment is with a view to coercing her to meet any unlawful demand for any property or valuable security. In the present case, Thilari Naga Malleswari gave a report to the police which is marked as Ex. P5 and the same was registered as Cr. No. 3 of 1994 of Gudur Police Station. In her complaint she had stated that she was harassed to bring more money by her husband. It is contended that this report was a counterblast to O.P. filed by her husband. The prosecution marked the letters addressed by Naga Malleswari as Exs. P2 and P3. Exs. P2 and P3 are clinching and material documents to prove that the accused harassed Naga. The contents in Exs. P2 and P3 would disclose that she was subjected to harassment by her husband to meet his unlawful demand for dowry. Exs. P2 and P3 are written prior to giving the report to the police. Ex. P2 bears the postal stamp of Gudur post office and, therefore, Ex. P2 cannot be disputed. Ex. P3, though it is in the white paper and though the prosecution did not file the cover, the writing in Exs. P2 and P3 is similar and, therefore, it is the victim who wrote those letters to her parents. Exs. P2 and P3 clinchingly prove the harassment meted out by her husband. Ex. P1 is an

undertaking given by the accused that he would not harass her in future. P.W. 3, who is a mediator spoke about the execution of Ex. PI. P.W. 3 also signed on Ex. PI which was attested by the parents of the victim and the mediators. Though P.Ws. 4 and 5 turned hostile, it has to be considered whether the evidence of P.Ws. 1 to 3 and P.W. 6 would inspire the confidence of the CouVt." Both the Courts elaborately discussed the evidence of P.Ws. 1 and 2, which is cogent and convincing, Relying on the evidence of P.Ws. 1 to 3 and on Exs. PI to P3, both the Courts came to the conclusion that the offence u/s 498-A, I.P.C. is proved beyond reasonable doubt against the accused. Hence, the Courts below have not committed any irregularity or error to conclude that the offence u/s 498-A, I.P.C. is proved against the accused. There are no merits in the revision and no interference is necessary by this Court.

7. The learned Advocate appearing for the revision petitioner prayed for mercy with regard to the quantum of sentence. Having regard to the circumstances under which the offence is committed and the nature of the case, the sentence is modified to one year instead of two years.

8. In the result, the revision is dismissed confirming the conviction of the revision petitioner u/s 498-A, I.P.C. and the sentence of imprisonment for two years is reduced to one year, in addition to the fine already imposed by the lower Court.