
(2003) 02 AP CK 0055
In the Andhra Pradesh High Court
Case No : Criminal R.C. No. 53 of 2003

Bandakuri Parvathi

APPELLANT

Vs

Bandakuri Vijayakumar and Another

RESPONDENT

Date of Decision : 11-02-2003

Acts Referred:

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

Citation : (2003) 1 ALD(Cri) 604 : (2003) 2 ALT(Cri) 127 : (2003) 2 APLJ 87 :
(2004) 1 DMC 571

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : T.S.N. Murthy, for the Appellant; Public Prosecutor, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—This is a revision filed by the de facto complainant in C.C. No. 692 of 1999 on the file of the III Metropolitan Magistrate at Vishakapatnam, challenging the order dated 30-12-2000 acquitting the accused therein.

2. The petitioner herein submitted a complaint Ex.P-1 alleging that her marriage with the accused took place on 31-05-1997. They were blessed with a female child. She alleged that after the birth of the female child, the accused started demanding dowry and was harassing her. She was taken to her parents' house in the year 1999 on account of ill health. On 13-07-1999 the mother of the accused came to the house of the parents of PW-1 and asked her to accompany to their house. PW-1 could not accompany her mother-in-law on account of her continued ill health. It is alleged that after her mother-in-law left, the accused together with three others came there and insisted that PW-1 should accompany him to his house. On her refusal, he raised a dispute and during the course of the same, he held the tuft of PW-1. Due to intervention of neighbours the

accused and his followers left the place.

3. With these allegations the prosecution filed a charge-sheet alleging offence u/s 498A I.P.C. against the accused. PWs 1 to 5 were examined and Exs.P-1 to P-3 were marked. PW-1 is the petitioner herein and PW-2 is her mother. PWs 3 and 4 are outsiders said to have witnessed the incident.

4. Sri T.S.N. Murthy, learned counsel for the petitioner submits that the prosecution has established that the accused caught hold of the tuft of the petitioner herein and that is sufficient to hold that the accused has committed offence punishable u/s 498A I.P.C. It is also his case that the trial Court ought to have convicted the petitioner on the basis of the evidence on record.

5. In Ex.P-1 the petitioner herein has narrated the factum as to her marriage with the accused and the various developments that have taken place thereafter. The gravamen of the complaint is as to the incident that is said to have taken place on 13-07-1999. Even if the contents of Ex.P-1 in this regard are taken on their face value, they are only to the effect that the accused and her mother have come to the residence of the parents of the petitioner and insisted on her to follow her to go to their residence. While the mother of the accused is said to have gone, the accused together with three others have come after some time and raised a dispute in which the accused is said to have caught hold of the tuft of the petitioner. Even according to the contents of Ex.P-1, the whole incident took place in the course of either persuading or insisting or compelling the petitioner to return to the house of the accused. It was not even alleged that the accused had resorted to harassment of the petitioner, with a view to compel her to bring dowry. The trial Court found that the evidence of PWs 1 and 2 was a substantial improvement over the contents of Ex.P-1. It further recorded a finding that the depositions of PWs 3 and 4 are at variance with those of PWs 1 and 2. Every act that may have resulted on account of differences between the wife and husband cannot be branded as cruelty as defined in explanation to Section 498A I.P.C. It is only when the acts complained of are willful in nature and accentuated with the object of coercing the wife or any person related to her to meet the unlawful demand for any property or valuable security; that an offence u/s 498A can be said to have been committed. None of these ingredients are even alleged, much less proved the present case.

6. At any rate, no procedural irregularity said to have been committed by the trial Court is pointed out. The scope of interference u/s 401 Cr.P.C., against an order of acquittal is very limited. Even where two views are possible and the trial Court has taken one such view, this Court cannot interfere with the judgment of the trial Court. It is only where any procedural irregularity is committed or where the order of the trial Court cannot be sustained either on facts or in law that this Court can consider the feasibility of ordering retrial or rehearing of the matter. The order of acquittal cannot be converted to the one of conviction, in a revision.

7. The CrI. R.C. is accordingly dismissed.