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**(2004) 08 AP CK 0117**

**In the Andhra Pradesh High Court**

**Case No : Criminal Appeal No. 1097 of 1998**

Cheruku Umapathi

APPELLANT

Vs

State of A.P.

RESPONDENT

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**Date of Decision :** 31-08-2004

**Acts Referred:**

Penal Code, 1860 (IPC) — Section 306, 498A

**Citation :** (2005) 1 ALD 21 : (2005) 1 ALD(Cri) 21 : (2005) 1 DMC 482

**Hon'ble Judges :** P.S. Narayana, J

**Bench :** Single Bench

**Advocate :** C. Praveen Kumar, for the Appellant; Addl. Public Prosecutor, for the Respondent

**Final Decision :** Allowed

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## Judgement

P.S. Narayana, J.—Cheruku Umapathi, accused No. 1 in S.C. No. 32 of 1996 on the file of I Additional Sessions Judge, Ranga Reddy District had preferred the present criminal appeal as against the judgment dated 3.8.1998. Accused No. 2 is the mother of accused No. 1 and both of them were tried for offences, under Sections 498-A and 306, I.P.C. and as far as the offence Section 306, I.P.C. is concerned, acquittal was recorded as against accused and u/s 498-A, I.P.C, acquittal was recorded as against Accused No. 2, but however accused No. 1 was found guilty of the offence u/s 498-A, I.P.C. and accordingly conviction was recorded and accused No. 1 was sentenced to undergo R.I. for one year and to pay a fine of Rs. 1,000/-, in default to undergo S.I. for three months.

2. The case of the prosecution is that the deceased Manimeghala is the sister of P.W.-1 and daughter of P.W.-2 and she was married to accused No. 1 in November 1985 and accused No. 2 is the mother of the accused No. 1 and they have been residing at Raju colony, Balanagar. Since the time of their marriage the deceased was being harassed by the accused by demanding more dowry and also did not allow her to visit her parents house. There used to be physical and mental torture to the deceased and she was secretly informing the same to her family

members. It was also disclosed that accused No. 1 was having illicit intimacy with one lady by name Spandana and due to that he was asking the deceased to go to her parents house. Accused No. 1 also beat the deceased several times when she raised objection. When the deceased complained to accused No. 2, she also did not consider the matter. The deceased, went to the house of P.Ws. 1 and 2 on 29.1.1993 and disclosed her sufferings. They; promised to settle the matter on 7.2.1993 (Sunday) by getting the elders. On 4.2.1993 at about 1400 hours P.W.-I lodged a complaint stating that the deceased committed suicide by hanging being unable to bear with the torture and ill-treatment. The case was registered as a "case in Cr. No. 15/93 under Sections 498-A and 306, I.P.C. and investigating into. During the course of the investigation, inquest was held over the dead body of the deceased and the dead body was sent for post-mortem examination and the statements of the witnesses were recorded and the accused were arrested on 4.2.1993 and sent for remand. The investigation disclosed that the accused are guilty of the offences under Sections 498-A and 306, I.P.C. The case was taken on file as P.R.C. No. 30/93 by the Additional Judicial Magistrate of First Class, Hyderabad West and South, Ranga Reddy District and the same was committed to the Court of Session which made over the case to the I Additional Sessions Judge who had proceeded with the trial, examined P.W.-I to P.W.-11 and also marked Exs. P-I to P-9 and M.Os. 1 to 4 and ultimately recorded acquittal as far as the offence u/s 306, I.P.C is concerned as against both the accused and recorded acquittal as against accused no. 2 in relation to the offence u/s 498-A, I.P.C, also, but recorded conviction as against the appellant/accused No. 1 alone for the offence u/s 498-A, I.P.C.

3. P.W.-I is the brother of the deceased who deposed that the accused started harassing the deceased. Accused No. 1 developed intimacy with another woman Swapna and the ill-treatment of the deceased started 4 or 5 years prior to her death and the deceased used to come to their house and inform about all these aspects. This witness was cross examined at lengths P. W. 6 simply deposed that the deceased married accused No. 1 about 13 years back and they had a son and a daughter and at the time of marriage cash of Rs. 6000/- and gold was presented and accused No. 1 kept another woman and in that connection disputes arose between the deceased and accused No. 1 and one week prior to the death the deceased came to P.W.-6 and informed that the accused No. 1 was living with another woman and when she questioned accused No. 2 she advised her to adjust and stated that there is nothing wrong for accused No. 1 being a male to live with another woman. P. W.-6 also deposed that the deceased complained of her suffering. P.W.-7 is the sister of the deceased who also deposed about the same facts.

4. It is needless to say that inasmuch as acquittal was recorded in relation to the offence u/s 306, I.P.C. all the other evidence available on record would relate to the said offence and the same need not be discussed in detail. The other witnesses P.W.-2, P.W.-3 and P.W.-4 were declared hostile. P.W.-5 appears to be a child witness. However, this witness also was declared hostile. On a careful

scrutiny of the evidence available on record what had been deposed by these witnesses is what had been stated to them, which is definitely in the nature of hearsay and except this evidence there is no other legally acceptable evidence available on record. Having recorded acquittal even u/s 498-A, I.P.C so far as it relates to accused No. 2, on the strength of the same evidence, the learned Judge could not have recorded conviction as against the appellant/accused No. 1, Strong reliance was placed on a decision of the Apex Court in *Inderpal v. State of M.P.* 2 (2002 SLT 226 : 2003 SCC 1049, and a decision of Division Bench of this Court in *G.M. Ravi @ Purushothant v. State of A.P.* On facts it is clear that inasmuch as these witnesses deposed relating to what had been conveyed to them their statements are in the nature of hearsay and except this evidence the prosecution was unable to point out any other legally acceptable evidence to sustain the conviction of the appellant accused No. 1 u/s 498-A, I.P.C. In the light of the evidence available on record, this Court has no hesitation in holding that the conviction and sentence recorded as against the appellant/A-1 u/s 498-A, I.P.C. also cannot be sustained and accordingly they are hereby set aside and the appellant/A-1 is hereby acquitted of the charge u/s 498-A, I.P.C. also.

5. The criminal appeal is accordingly allowed. The bail bonds of the appellant/accused No. 1 shall stand cancelled.