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**(2014) 07 AP CK 0115**

**In the Andhra Pradesh High Court**

**Case No : Criminal Petition No. 3313 of 2013**

Dandamudi Sai Krishna Sekhar

APPELLANT

Vs

The State of Andhra Pradesh

RESPONDENT

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**Date of Decision :** 30-07-2014

**Acts Referred:**

Dowry Prohibition Act, 1961 — Section 3, 4  
Penal Code, 1860 (IPC) — Section 406, 498-A

**Citation :** (2014) 07 AP CK 0115

**Hon'ble Judges :** K.G. Shankar, J

**Bench :** Single Bench

**Advocate :** Naseeb Afshan, Advocate for the Appellant

**Final Decision :** Dismissed

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## **Judgement**

Dr. K.G. Shankar, J.—The petitioner is accused No. 1 in C.C. No. 555 of 2005 on the file of the II Additional Chief Metropolitan Magistrate cum Manila Magistrate, Vijayawada, Krishna District. Case against him was split up and was numbered as C.C. 154 of 2009. Accused 2 to 4 faced trial in C.C. No. 555 of 2005. They were charged for the offences under Sections 498-A and 406 IPC and under Sections 3 and 4 of the Dowry Prohibition Act, 1961 (the D.P. Act, for short). The prosecution examined 7 witnesses and marked Exs. P-1 to P-4. The defence marked Ex. D-1 on its side. The Trial Court found accused 2 to 4 not guilty for the offences under Sections 498-A and 406 IPC. They were found guilty for the offence u/s 4 of the D.P. Act and were sentenced to rigorous imprisonment for a period of 6 months each and to a fine of one month each with appropriate default sentence. Contending that as accused 2 to 4 were acquitted for the offences under Sections 498-A and 406 IPC, the petitioner seeks for the quashment of C.C. No. 154 of 2009 against him for those offences.

2. The petitioner is accused No. 1. He is the husband of the 2nd respondent/de facto complainant. The other accused are the mother, sister and brother of accused No. 1. So far as accused No. 1 is concerned, Sri T. Bali Reddy, learned

Senior Counsel, contended that the petitioner has been a citizen of United States of America (USA) and by the date of the marriage, he was a Green Card holder. He pointed out that the case of the 2nd respondent is that the mother of the petitioner demanded for dowry and that there was no complicity on the part of the petitioner/accused No. 1. However, in the complaint, in the charge-sheet as well as in her evidence as P.W. 1, the 2nd respondent contended that the petitioner herein demanded her to put property in the name of his mother/accused No. 2. Thus, it is not as though there is no case against the present petitioner.

3. The learned Senior Counsel for the petitioner contended that the marriage between the petitioner and the 2nd respondent was solemnized on 05-8-2001 and was consummated on 09-8-2001. He pointed out that the petitioner, being a Green Card holder 2nd level, left for USA on 14-8-2001. Almost immediately thereafter, the 2nd respondent also went to USA (on 23-8-2001). It would appear that the 2nd respondent complained to the Detector in USA against the petitioner. The petitioner was arrested in USA on 01-4-2002 and was released on 09-4-2002. The learned Senior Counsel for the petitioner further submitted that the petitioner and the 2nd respondent however reconciled their disputes on 23-9-2003 and that the 2nd respondent returned to India in November, 2003 and lodged a complaint with Suryaraopet Police Station, Vijayawada on 01-12-2003. He also submitted that the 2nd respondent filed O.P. No. 10 of 2004 on the file of the Family Court, Vijayawada for divorce and deliberately gave incorrect address of the petitioner, so much so, notice of O.P., was not served upon the petitioner herein. On 17-02-2005, the 2nd respondent would appear to have obtained divorce through ex parte orders.

4. Be that as it may, the main question is whether the case against the petitioner deserves to be quashed. Ordinarily, when there are more than one accused in a case and when the case ended in acquittal in respect of some of the accused, the same may act as a ground to quash the case against the remaining accused, if the evidence against all the accused was common. In the present case, separate overt acts were attributed against the petitioner vis-?-vis the overt acts attributed against accused 2 to 4. Not only P.W. 1, other witnesses of the prosecution also attributed separate overt acts to the petitioner/accused No. 1. The allegations in the complaint as well as the evidence are distinct so far as the petitioner is concerned. An acquittal of the case against accused 2 to 4 per se cannot work out as an acquittal against the petitioner. The allegations constituting the overt acts so far as the husband/petitioner/accused No. 1 and the allegations against the mother-in-law/accused No. 2, brother-in-law and sister-in-law of the 2nd respondent cannot be equated with each other. I am afraid that the evidence on record per se may not be sufficient to bring home an acquittal against the petitioner. The petitioner may have to lead his own cross-examination and elicit truth from the witnesses, so far as the petitioner is concerned. Till then, the petitioner cannot be exonerated from facing trial. I see no merits in this petition at this stage. I consider that it would be appropriate for

the petitioner to face trial and seek an acquittal in the event there is no evidence or there is no appropriate evidence to bring home the guilt of the accused, against the petitioner beyond reasonable doubt.

5. Consequently, this criminal petition is dismissed. The miscellaneous petitions, if any, pending in this petition shall stand closed.