

IN THE COURT OF THE III ADDITIONAL JUDICIAL MAGISTRATE OF FIRST
CLASS :: ONGOLE.

Present: **Smt. V. Silpa,**
III Additional Judicial Magistrate of I Class, Ongole.

Thursday, this the 07th day of December, 2023

C.C.NO. 220 of 2018

Between:

State represented by Sub-Inspector of Police,
Women Police Station, Ongole

... Complainant

- Vs -

1) Pamarthi Sandeep Bhavan,
S/o. Veerabhadra Rao, aged 34 years,
D.No.11-968, Aravinda Nagar,
Ananthapur, Ananthapur District.

2) Pamarthi Veerabhadra Rao,
Aged 62 years, Padmasali,
Aravindanagar, Ananthapur District.

3) Pamarthi Kumari @ Saila Kumari,
W/o. Veerabhadra Rao, aged 55 years,
Padmasali Aravindanagar,
Ananthapur, Ananthapur District.

... Accused

This case is coming before me for final hearing on 04-12-2023 in the presence of learned Assistant Public Prosecutor for the Prosecution and the accused in person and upon perusing the material papers on record and having stood over till this day for consideration, this Court delivered the following:

//J U D G M E N T//

1) This case arises out of crime No.33/2017 for the offences under Section 498-A, Section 3 and 4 of D.P.Act of Women Police Station, Ongole registered on the report given by PW.1/P. Anuradha with the following allegations.

2) A brief resume of the prosecution case reads thus:

There is a love affair in between PW.1/P. Anuradha and accused which turns into marriage in between them in the year 2009. At the time of marriage, family members of PW.1 have offered gold worth about Rs.5,00,000/- towards dowry to the accused and after the marriage they lived at Pune, and at that time parents of

PW.1 gave Rs.5,00,000/- towards household articles. In the year 2010, as the accused/A1 got job at Tech Mahindra in Hyderabad, they have shifted their family from Pune to Hyderabad and since then he started harassing her, abused her in filthy language and subjected her to cruelty at the instance of his parents.

It is her further allegation that accused No.1 had been to Bangalore on the ground that he got a job, leaving her at Hyderabad and when she asked him to take her to Bangalore, accused No.1 without taking her along with him to Bangalore, insisted her to get Rs.20,00,000/- from her parents for purchasing a house. When she expressed her inability to bring the amount as demanded by him, accused No.1 threatened her that unless she brought the amount he will not take her along with him to Bangalore and he would go for second marriage and even he went to the extent that he will kill her. Thereupon, she informed the same to her parents who came to Hyderabad and took her back to Ongole. The efforts made by her and her parents for amicable settlement did not yield any positive result and in that connection she filed the instant report.

3) On the strength of the report given by her PW.3/M.S.Prasad, Sub-Inspector of Police registered F.I.R., recorded the statements of witnesses, prepared rough sketch of the scene and pending investigation A1 to A3 surrendered before the court and obtained bail. Later, after completion of investigation he laid charge sheet against accused No.1 and filed memo deleting the accused No.2 and accused No.3 and also to delete Section 3 and 4 of D.P.Act, but the said memo was dismissed by this court on 17.07.2018. Hence the charge.

4) The Court took cognizance of the offence under section 498-A of IPC and sec. 3 and 4 of D.P. Act against accused No.1 to accused No.3.

5) Accused No.1 to accused No.3 put in appearance before the court, copies of all documents as contemplated under section 207 Cr.P.C., are furnished to them.

6) A1 to A3 are examined U/sec.239 Cr.P.C., explaining the accusation made against them, and charges for the offences section 498-A of IPC, and sec. 3 and 4 of DP Act, have been framed, read over and explained to them in Telugu, for which, they pleaded not guilty and claimed for trial.

7) The prosecution in order to prove the complicity of the accused No.1 to accused No.3, examined PW1 to PW4 and got Ex.P1 to Ex.P4 marked.

8) Having concluded the evidence of prosecution witnesses, accused are examined under section 313(1)(a) Cr.P.C., by explaining the incriminating material appearing from the evidence of prosecution witnesses, for which, they denied and reported no defence evidence.

9) I have heard the learned Assistant Public Prosecutor and accused.

10) Now the question that arises for the consideration are:

Whether the prosecution is able to prove the guilt of the accused No.1 to accused No.3 beyond reasonable doubt, for the offences under section section 498-A of IPC, and sec. 3 and 4 of D.P. Act.

11) **POINT:-**

A case of dowry harassment is reported by PW.1 against A1 to A3 under Ex.P1 report whereof PW.3 the Sub-Inspector of Police having registered F.I.R, did investigation and on conclusion of investigation having felt that there is no satisfactory material against A2 and A3 deleted them and charge sheeted A1 alone. However, on considering the protest made by PW.1, to the note issued, this court rejected the memo and took cognizance against A1 to A3. When the accused was put to a questionnaire explaining the accusation made against them in the form of a charge, they denied all the accusations made against them. Their plea is one of total denial.

12) In order to prove the charge against accused No.1 to accused No.3 the prosecution has examined PW.1 the de-facto complainant, PW.2 her mother, PW.4 an independent witness and PW.3 the investigation officer in whose hands the entire case has taken its shape from the stage of F.I.R. till filing of final report.

13) The recitals under EX.1 report coupled with the evidence of PW.1 clearly would go to show that marriage in between PW.1 and accused that took place on 06.05.2009 is the result of love affair in between them. It is the assertion of PW.1 that at the time of her marriage, an amount of Rs.5,00,000/- for purchasing gold and another amount of Rs.5,00,000/- for purchasing household articles were given to the accused/A1 and after the marriage, they put up family at Pune and later shifted to Hyderabad. They lived happily for sometime. The grievance of PW.1 which is evident from her testimony is that at the instance of A2 and A3, A1 started quarreling with her, abused her in filthy language, demanding her to bring dowry for purchasing a house at Bangalore where he said to have got a job and when she questioned him to take her to Bangalore along with him, he instead of taking her to Bangalore, insisted her to bring additional dowry and subjected her to harassment, at the instance of accused No.2 and accused No.3.

14) Her mother who is examined as PW.2 speaks in similar lines with that of PW.1, in regard to offering of Rs.5,00,000/- for purchasing household articles to the accused at the time of marriage. She further would depose that though accused No.1 looked after PW.1 happily for sometime, but started harassing her at the instance of A2 and A3 demanding her to bring additional dowry and in the event of not meeting his demand, he will go for second marriage. She also spoke about the demand made by accused towards PW.1 for bringing additional dowry of Rs.20,00,000/- for purchasing of house and having no other go PW.1 approached the police and filed report.

15) The testimony of PW.4/Zelli Rammohan an independent witness reveals that in the year 2010 accused and PW.1 came down to Hyderabad from Pune and lived as tenants in his house. According to him after 2 years, accused had been to London for job purpose and returned to Hyderabad thereafter and from there he had been to Bangalore and from 2015 he never visited to Hyderabad and did not pay the rent for seven months. His evidence in fact did not reveal any material about the alleged harassment meted out towards PW.1 as contended by prosecution.

16) In this context, it is profitable to refer Section 498-A of I.P.C in order to know, the ingredients of the said offence, and what amounts to "**cruelty**" within the parameters of the definition envisaged under the said provision.

498-A IPC: 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 willful 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.

17) Thus, it is clear in the light of the definition, extracted above that, every harassment will not come under the purview of "**cruelty**" unless consequences of

cruelty which are likely to drive a woman to commit suicide or to cause grave injury or danger to life, limb or health, whether, mental or physical of the woman and the same is required to be established, in order to connect the accused, with the said offence. In any event, the willful act or conduct, ought to be the proximate cause for fixing the accused within the frame of the said charge.

18) Not only from the language employed in the definition of Section 498-A of I.P.C. which is extracted above and also from the law laid down by the Hon'ble High Courts and Hon'ble Apex Court, in various judicial pronouncements, is summarized what is meant by cruelty. The essential ingredients that require attracting Section 498-A of I.P.C. are that there was a married woman and that such woman was subjected to cruelty within the two limbs of the definition. In the instant case though PW.1 has asserted that she married accused in the year 2009 and at the time of marriage her parents gave Rs.5,00,000/- for purchasing gold ornaments towards dowry, nowhere either in her report or in her evidence she stated that she was already married and obtained divorce from her first husband. It is only in her cross examination, she stated that she did not mention in her marriage registration certificate that, she was married before marrying the accused and it is nothing but suppression of material fact. Of course, though the accused did not raise any such plea in the cross examination of the prosecution witnesses, legal obligation cast on the de-facto complainant to put all real facts before the court for proving the allegations made against the accused beyond all reasonable doubt. She having claimed that she has obtained divorce from her first husband in the year 2007, for the obvious reasons known to her, she did not file any copy of such order for perusal. Be that as it may.

19) While confining to the allegations made by PW.1 in her report covered by Ex.P1 coupled with her evidence, what is discernible is that her parents gave

Rs.5,00,000/- for purchasing of gold and other articles and subsequently gave another Rs.5,00,000/- for purchasing of household articles at the time of her marriage with accused. She also has asserted that on the demand of accused when he went to London for job purpose her parents gave Rs.5,00,000/- and later Rs.20,00,000/- for purchasing house. However, none of the alleged payments made by the parents of PW.1 were made under the category of "dowry", though the said payments were allegedly made on the demand of accused. In her cross examination, PW.1 has categorically stated that Rs.5,00,000/- given as a gift but not as a dowry. No receipt or any other documentary proof is brought on record by PW.1 showing the alleged payments made. It is not even her case that the said payments were made in the presence of either her family members or in the presence of elders. Therefore, even if assuming for a moment that the amount allegedly given by parents of PW.1 to accused towards dowry on his demand, no scrap of paper is brought on record for appreciating her contention. According to her, when she was working at Pune A1 went to Australia and there were no disputes in between them at that time and only when they have been to Hyderabad disputes cropped up at the instance of A2 and A3. Had it been the case of PW.1 that there was an element of harassment during her stay either at Pune or at Hyderabad, he should have filed report before police in anyone of the places but it is not her at any point of time.

20) The testimony of PW.4 in whose house they lived as tenants indeed did not reveal that accused subjected PW.1 to harassment on any ground much less on the ground of additional dowry. Moreover, in his cross examination, he stated that he does not know the disputes between PW.1 and accused except some petty disputes. Therefore the evidence of PW.4 is not of much help to prosecution. If the evidence of PW.4 is discredited for want of positive material what remains on record is that testimony of PW.2 mother of PW.1.

21) To what extent the evidence of PW.2 can be acted upon for believing the case of PW.1 that, she was subjected to physical and mental harassment demanding additional dowry and whether or not the testimony of PW.1 and PW.2 is consistent on material aspects for appreciating the case set out by PW.1. Apparently the testimony of PW.2 did not disclose about her offering of Rs.5,00,000/- for purchase of gold ornaments. Though she has deposed about offering of Rs.20,00,000/- for purchasing of house and Rs.5,00,000/- when A1 had been to London, what matters is that no oral or documentary evidence supporting her case is brought on record. Being mother of PW.1 what she has deposed in her cross examination is that she does not remember in which year PW.1 got divorced from her first husband.

22) She has categorically admitted about her omission to state about the divorce obtained by PW.1 from her first husband. It is also her assertion in cross examination that A2 and A3 did not attend at the time of marriage of PW.1 and A1. She having claimed that she used to visit the house of PW.1 frequently, failed to state the nature of job of PW.1 and its details. She expect stating that by selling two flats they paid Rs.20,00,000/- to accused through bank for the obvious reasons known to her, he did not filed any record to that effect. There is no corroboration in the evidence of PW.1 and PW.2 to whom actually the amount allegedly was given. PW.1 says that it was given by her parents to A1 whereas PW.2 says that it was given to PW.1 through bank account. Their evidence in fact reveals that no complaint is filed either at Pune or at Hyderabad. Had there been any supporting oral or documentary evidence establishing the factum of offering the amounts referred above in different intervals, case of prosecution could have been appreciated and in the absence of such concrete material, it is not wise to solely rely on the testimony of PW.1 and PW.2 which is not otherwise reliable and to connect the accused with the offences levelled.

23) No doubt, the investigating officer PW.3 claimed to have visited the scene of offence recorded the statements of witnesses. In his cross examination he admitted that PW.1 mentioned in Ex.P1 that after the marriage she never lived in Ongole and he does not know whether PW.1 was previously married. PW.3 is under legal obligation to enquire in detail before charging the accused on the allegation of dowry harassment whether or not PW.1 was earlier married. In order to prove the dowry and other lanchanams allegedly given, PW.3 simply has admitted in his cross examination that there is no documentary proof to show that there is dowry harassment. PW.3 having claimed that, he visited the scene of offence prepared rough sketch of the scene under Ex.P3 for the obvious reasons known to him, he did not examine any of the persons whose names were mentioned in the rough sketch and had it been done by the investigating officer, there could be some justification in believing the case of PW.1 that she was subjected to harassment for want of additional dowry. It appears that the investigating officer for the obvious reasons known to him, has not undertaken any such exercise. He did not even visit Hyderabad where the alleged harassment was meted out to PW.1. Though he had shown LW.2, LW.4, LW.6 and LW.7 as witnesses in support of prosecution case, but eventually the prosecution could not examine them. There is whisper either in the evidence of PW.1 or in the evidence of PW.2 that PW.1 was driven out by the accused to meet their unlawful demands for fixing the case within ambit of section 498-A of I.P.C. The investigation claimed to have been carried by PW.3 is not inspiring confidence for linking the accused with the offences alleged.

24) Having regard to the facts and circumstances and having gone through the entire evidence brought on record, this court is of the concerned view that the prosecution could not succeed in placing concrete evidence for framing the

accused within the parameters of section 498-A and section 3 and 4 of D.P. Act. In other words the material brought on record is not sufficient to record finding of guilt against the accused for any of the charges framed against them and entitling him to claim for acquittal.

25) In the result and for the reasons indicated above, I find that accused No.1 to accused No.3 are not guilty of the offences punishable under sections 498-A of I.P.C. and sec.3 and 4 of D.P.Act. Accordingly, they are acquitted under section 248(1) Cr.P.C. The bail bonds of the accused shall be in force, for a period of six months under section 437-A Cr.P.C. No case property is produced in this case, as such no order is passed.

Typed to my dictation by the Personal Assistant, corrected and pronounced by me in open court, this the 7th day of December, 2023.

**Sd/- V. Silpa,
III ADDITIONAL JUDICIAL MAGISTRATE OF I-CLASS,
ONGOLE.**

APPENDIX OF EVIDENCE

Witnesses examined

For Prosecution:

For Defence:

PW1/LW1 – P. Anuradha

N I L

PW2/LW3 – K. Vijayalakshmi

PW3/LW8 – M.S. Prasad

PW4/LW4 – Z. Madhavi Latha

DOCUMENTS MARKED

For prosecution:

For Defence:

Ex.P1 – Report of PW.1

N I L

Ex.P2 – First Information Report

Ex.P3 – Rough Sketch of the scene of offence at Samatha Nagar.

Ex.P4 – Rough sketch of the scene of offence at Krishna Nagar.

MATERIAL OBJECTS MARKED

- N I L -

**Id/- V. Silpa,
III-A.J.M.F.C.,
Ongole.**

CALENDAR AND JUDGMENT

District : PRAKASAM

Calendar cases tried by the III-ADDITIONAL JUDICIAL MAGSITRATE OF I-CLASS, ONGOLE.

Date of						
Offence	Report	Apprehension of Accused	Released on bail	Commencement of trial	Close of trial	Sentence
Prior to 07.04.2017	07.04.2017	-	Served 41-A Cr.P.C notices	13.12.2023	23.02.2023	04.12.2023

Judgment in CC.220/2018 on the file of III-Additional Judicial Magistrate of I-Class, Ongole.

Complainant: Sub-Inspector of Police, Ongole Taluka Police Station, Cr.No.33/2017

Sl. No	Name of the Accused	Age	Father's Name	Religion	Residence	Mandal
1	Pamarthi Sandeep Bhavan	34	Veerabhadra Rao	Hindu	Aravinda Nagar	Ananathapur
2	Pamarthi Veerabhadra Rao	62	-	Hindu	Aravinda Nagar	Ananthapur
3	Pamarthi Kumari @ Saila Kumari	55	W/o. Veerabhadra Rao	Hindu	Aravinda Nagar	Ananthapur

Offence: Under section 498-A of I.P.C., Sec 3 and 4 of D.P.Act

Finding: Found not guilty.

Sentence :- In the result and for the reasons indicated above, I find that accused No.1 to accused No.3 are not guilty of the offences punishable under sections 498-A of I.P.C. and sec.3 and 4 of D.P.Act. Accordingly, they are acquitted under section 248(1) Cr.P.C. The bail bonds of the accused shall be in force, for a period of six months under section 437-A Cr.P.C. No case property is produced in this case, as such no order is passed.

Sd/- V. Silpa,
III-Additional Judicial Magistrate of I-Class,
Ongole.

Submitted to the Hon'ble 1st Additional District and Sessions Judge, Ongole.