

IN THE COURT OF THE SPL. JUDL. MAGISTRATE OF FIRST CLASS  
(MOBILE)-CUM-II ADDL. JUNIOR CIVIL JUDGE, VIZIANAGARAM

Present: Smt K.M. Zamruth Begum  
Spl. Judicial Magistrate of First Class (Mobile)-cum-  
II Addl. Junior Civil Judge, Vizianagaram

Friday, the 16th day of December, 2022

C.C.No. 391/2016

Between:

State repled. by the Sub-Inspector of Police,  
Women Police Station, Vizianagaram.

... Complainant.

And:

1. Pantla Krishna Murthy.
2. Pantla Appayamma

... Accused

This case is coming on 02.12.2022 for final hearing before me in the presence of Learned APP for the prosecution and Sri K. Karthik, Advocate for Accused and upon hearing and having stood over the matter for consideration to this day, this Court delivered the following:

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

1. The State represented by the Sub Inspector of Police, Women Police Station, Vizianagaram has filed charge sheet against the Accused No.1 and 2 in Cr.No.88/2016 for the offence under section 498-A,406, 506 of IPC and Sec.3 and 4 of Dowry Prohibition Act and Sec.3 and 4 of Dowry Prohibition Act.

2. The prosecution story in nutshell is as follows:

The marriage of LW1-Pantla Kiranmai with A1 was held on 08.06.2010 in Masoinic Temple, Vizianagaram. Before marriage at the time of negotiations, A1 and A2 demanded Rs.15,00,000/- cash and 5 tulas gold ornaments as dowry for which the parents of LW1-Pantla Kiranmai agreed. On 07.06.2010, LW1's father i.e., LW2-Pathivada Venkata Ramana Murthy gave the dowry amount of Rs.15,00,000/- to A1 in the presence of LW4-Burada Suryanarayana, LW5-Kandeti Sanyasi Rao and LW6-Taddi Seetharam and on the same day, A1 deposited an amount of Rs.11,66,000/- in State Bank of Hyderabad Main Branch in

his account bearing No.62000977766 from the dowry amount and kept the remaining amount with him for his personal expenses. On the date of marriage, the father of LW1 i.e., LW2-Pathivada Venkata Ramana Murthy gave 5 tulas gold ornaments and saresamanulu worth Rs.1,00,000/- to the accused and also adorned 8 tulas of gold ornaments to LW1-Kiranmai. After marriage, LW1-Kiranmai went to Vijayawada along with the accused to leave marital life where the accused looked after LW1 well properly for one year and she blessed with a male child on 02.09.2011 and later both the accused started harassing LW1-Kiranmai both physically and mentally to bring additional dowry from her parents' house or to purchase house site by her parents. In the year 2012, on the eve of Sankranathi festival LW1-Kiranmai visited her parents house and informed them about the harassment made by the accused to her for want of house site. In the month of February, 2012 the parents of LW1-Kiranmai held panchayat before LW4-Burada Suryanarayana, LW5-Kandeti Sanyasi Rao and LW6-Taddi Seetharam but A1 warned that unless the parents of LW1 present house site, he will not take back LW1 to his house and give divorce to her. There upon the father of LW1 i.e., LW2-Pathivada Venkata Ramana Murthy purchased 1600 Square yards site and registered an Extent of 1000 Sq.yards in the name of A1, registered an extent of 300 Sq.Yards in favour of A2 and registered 300 Sq. Yards in the name of LW1-Kiranmai on 29.02.2012. After 5 months of the above transaction, again the accused started harassment towards LW1-Kiranmai to bring Rs.10,00,000/- from her parents' house. On that LW2-Pathivada Venkata Ramana Murthy gave Rs.5,00,000/- to the accused on 12.08.2012 before elders, since then the accused treated LW1-Kiranmai property for a period of one year and again started harassment for want of additional dowry and drove LW1-Kiranmai out from their house in the month of November, 2014. As there is no other option, LW1-Kiranmai filed a petition in Legal Service Authority vide PLC

No.115/2014. On 05.04.2015 the father of LW1 i.e., LW2-Pathivada Venkata Ramana Murthy held panchayat before elders and in the panchayat the accused promisee that they would look after LW1-Kiranmai properly, took back her to their house on 23.4.2015, but they did not change their attitude and continued their harassment due to which LW1-Kiranmai mortgaged her gold ornaments in Vijaya Bank for Rs.92,000/- and gave the same to A1, but the accused did not satisfy and continued their harassment. On 11.09.2015 both the accused forced LW1-Kiranmai to put her signatures on white papers and empty promissory notes and when she refused to do so, A1 warned unless she signs on papers or bring additional dowry of Rs.5,00,000/- he would kill her. Due to fear, LW1-Kiranmai went to Satyanarayanapuram Police Station, Vijayawada and reported against the accused. On knowing about the report, LW2-Pathivada Venkata Ramana Murthy went to Vijayawada and brought back LW1-Kiranmai to his house. Basing on the report of LW1-Pantla Kiranmai, LW15-SI of Women PS, Vizianagaram registered case in Cr.no.88/2016 u/s 498-A, 406, 506, of IPC and Sec.3 and 4 of Dowry Prohibition Act and submitted the original FIR to the court and after completion of investigation the SI of Women PS, Vizianagaram filed charge sheet against the accused.

3. This case was taken cognizance against A1 and A2 for the offence under Section 498-A, 406, 506 of IPC and Sec.3 and 4 of Dowry Prohibition Act.

4. After appearance of the A1 and A2 case copies are furnished to them as required u/s 207 of Cr.P.C, A1 and A2 were examined under Section 239 Cr.P.C., for which they denied the offence. Charges for the offence under Section 498-A, 406, 506 of IPC and Sec.3 and 4 of Dowry Prohibition Act have been framed against them. They pleaded not guilty and claimed to be tried.

5. During trial, PW1 to PW12 were examined and Exs.P1 and P9 were exhibited on behalf of the Prosecution. The learned APP given up the evidence of LW3, LW10, LW12 and LW17. Ex.D1 to D11 were exhibited on behalf of the defence.

6. On closure of the evidence let in by the prosecution, A1 and A2 were examined U/Sec.313 of Cr.P.C., incriminating material available in the testimonies of Prosecution witnesses was explained and read over to them in Telugu for which they denied and reported no evidence on their behalf. Hence, the evidence of Accused was closed.

7. Heard the learned Assistant Public Prosecutor and learned Counsel for the Accused. Perused the Record.

8. Now, the point for determination is: "Whether the prosecution has proved the guilty of A1 and A2 for the offence under Section 498-A, 406, 509 of IPC and Sec.3 and 4 of Dowry Prohibition Act beyond reasonable doubt ?"

9. **LAW:**

**Section 498A of the Indian Penal Code:** 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.

**Section 406 of Indian penal code:** Punishment for criminal breach of trust.—Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**Section 506 of Indian penal code:** Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

If threat be to cause death or grievous hurt, etc.-And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or 1[imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**Section 3 of Dowry Prohibition Act:**

**Penalty for giving or taking dowry .**[(1)]If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable [with imprisonment for a term which shall not be less than [five years, and with fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more]

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than [five years.]

[(2) Nothing in sub-section (1) shall apply to, or in relation to,

(a) presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act:

(b) presents which are given at the time of a marriage to the bridegroom (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with the rules made under this Act:

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.

**Section 4 of Dowry Prohibition Act:**

If any person demands, directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to two years and with fine which may extend to ten thousand rupees

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

10. **THE EVIDENCES BEFORE THE COURT:**

The evidence of defacto complainant/PW1 is that she was married to A1 on 8.6.2010 at Masonic Temple, Vizianagaram and at the time of marriage, her parents presented Rs.15,00,000/- cash towards dowry, 5 tulas of gold to A1, 8 tulas of gold to her and bridal articles worth Rs.1,00,000/- to accused. She further stated that out of wedlock, she blessed with a son on 2.9.2011 and later both the accused started harassing her by demanding to bring additional dowry or to purchase a

house or land at Vizianagaram and give it to them and as her father did not fulfill demand of accused, accused left her at her parents house. She further stated that her father registered site in extent of 100 Sq. yards in the name of A1 and 300 Sq.yards each in her name and in the name of A2 and later on the accused took proper care of her for about 5 months and later they started demanding Rs.10,00,000/- as such her father gave Rs.5,00,000/- to A1. She further stated that after one year, A1 and A2 started their demand of money. She further stated that she gave her gold to A1 and A1 pledged the same before bank, took the amount and spent it for his own. She further stated that again A1 started demanding her money and as she expressed her inability, A1 and A2 beat her in the month of September, 2014 and drove her out from their house. She further stated that on 23.4.2015 accused took her to their house and took her wearing gold ornaments and pledged the same for Rs.92,000/- at Vijaya Bank, Vizianagaram and not satisfying with the same, accused threatened her to sign on a blank promissory note other wise they will kill her, on that she gave report to the police which was registered as case.

During cross-examination PW1 stated that her marriage with A1 is arranged marriage. She further stated that Sarisamans includes refrigerator of LG company, Washing machine of LG Company, Iron Almarah, Divan Cot with pillo covers, mattress. She further stated that some of the house hold articles of sarisamans were admitted to the witness through photos and she admitted that as some of house hold articles forming part of sarisamans mentioned in her report/Ex.P.1. She further stated that confronted 09 photos with CD is marked as Ex.D.1. PW1 was confronted with bills and job sheets of service of respective house hold articles, refrigerator of LG company, Washing machine of LG Company, Iron Almarah, Divan Cot with pillow covers, mattress which

are mentioned by witness in her report and she admitted by witness above and she admitted them to be bills in job sheets of services and 06- Bills of purchase of Refrigerator, Washing Machine, Divan Cot, Matters one Almyrah and 02- Job sheets with different dates are marked as Ex.D.2. She further stated that the bills have those articles with subsequent dates of our marriage and also in the names of A.1 only. She further stated that an amount of Rs.1 lakh was given to A.1 towards sari samans and subsequently he purchased the above articles in his name. She further stated that as per her report/Ex.P.1, house hold articles (sari samans) worth of Rs.1 lakh were given to A.1. She further stated that for first time, she is deposing before the Court that they gave amount Rs.1 lakh to accused towards sari samans and subsequently A1 purchased them with that amount. She further stated that FCOP 154/2015 on the file of Hon'ble Family Court, Vijayawada for restitution of conjugal rights was filed by accused against her and it was settled in Lok Adalat with terms by agreeing to join conjugal life of A.1 without interference of her parents, apart from other terms and by that time, even she did not engage counsel and as per mutual understandings of A.1 only, those terms were drafted. She further stated that Certified copy of Lok Adalat award dated 01.05.2015 of Lok Adalat, Vijayawada along with petition in FCOP No.154/2015 is marked as **Ex.D.3**. She further stated that herself and A1 lived happily till the birth of her boy child. She further stated that she stated before Family Court, Vizianagaram in FCMC 2/2016 on 27.03.2017 that "at the time of their marriage, the respondent adorned 3 tulas of pustula tadu, 1 ½ tula black beads and 1 ½ tula step chain consisting of 3 steps, she came to her parents house on her own accord" and "It is true respondent has good name and he is honesty person in his Department". She further stated that after the marriage she went to her in-laws house for the first time. She further stated that she has not stated



before the police and not mentioned in her report about the quantum of amount demanded by the accused towards additional dowry as well as date and time of the demand. She further stated that no report was given by her to the Police in the month of February, 2012 and also no notice was got issued by her and the same was stated by her at first after three years at the time of giving Ex.P.1. She further stated that the mediation was held in first week in February, 2012, but she cannot say the date, but the mediation was held in Vizianagaram and A1 was also present at the time of mediation in Vizianagaram. She further stated that the particulars of persons from whom the amount of Rs.17,00,000/- was borrowed by her father are not stated by her before the Police and she does not know whether the said amount of Rs.17,00,000/- was shown by her father in his Income tax returns or not and she does not know whether those documents are handed over to Police or not. She further stated that she has filed an application before Senior Divisional Personnel Officer, South Central Railway, Vijayawada under RTI Act seeking information whether A1 has obtained any permission for the purchase of immovable property i.e. 1000 Sq.Yds in Vizianagaram by him, Ex.D4 is Application submitted by the P.W.1 to the Senior Divisional Personnel Officer, South Central Railway, Vijayawada. She further stated that the reply was received by her stating that A1 has obtained permission for the purchase of property of 1000 Sq.Yds, Ex.D.5 is the Reply issued by Senior Divisional Personnel Officer, South Central Railway, Vijayawada. She further stated that she does not know whether any loan was obtained by A1 in Vijayawada prior to purchase of said 1000 Sq.Yds of site. She further stated that on 27.02.2012 a gold loan for Rs.2,00,000/- was obtained by her in Vijaya Bank, Vizianagaram. She further stated that she does not know whether the colleague of her husband Mahanthi Srinivasarao also purchased property adjacent of the site of A1. She further stated that the signature shown to her on the Loan Arrangement Letter

dt.01.10.2018 at the Guarantor column is belongs to her, Ex.D.6 is the loan arrangement letter dt.01.10.2018. She further stated that she does not know whether A1 has signed as guarantor for the loan obtained by Mahanthi Srinivasarao for the purchase of his property. She further stated that she has been obtaining gold loans from 2012 till this date from Vijaya Bank, Vizianagaram and she has been spending the said amount. She further stated that her family members i.e. her father and mother have obtained loan on her name in Vijaya Bank, Vizianagaram. She further stated that she did not mention in Ex.P.1 and state before the Police in my 161 Cr.P.C statement about the place, date and month that after five months of 29.02.2012 the demand of additional dowry for Rs.10,00,000/-. She further stated that she has not stated the names of elders before the Police and she does not have any personal knowledge about sale transaction of land situated in Appayyapeta by her father. She further stated that she does not remember whether the documents relating to the above said sale transaction are furnished to the Police or not. She further stated that on 12.08.2012 they gave Rs.5,00,000/- in Vizianagaram, she does not remember the place. She further stated that she does not know whether the gold loan repayment was done by A1 during the time herself and A1 were living together. She further stated that the Bank People used to return the gold ornaments to the applicant after repayment of the amount. She further stated that she cannot say the date, month and year on which disputes arose between her and A1. She further stated that the amount will be credited to her Savings Bank Account after approval of the gold loan. She further stated that she never used ATM Card of Vijaya Bank and ATM card was sanctioned to her account in Vijaya Bank. She further stated that her mother and father have been using her ATM card of Vijaya Bank. She further stated that she has no Account in Bank of Baroda. She further stated that Police report was

given by her in September, 2014. She further stated that she has filed PLC 15/2014. She further stated that the same was closed as there is no settlement, Ex.D.7 is copy of Petition in PLC No.115/2017 along with Docket Order dt.22.08.2015. She further stated that the writing shown to her Agreement dt.23.04.2015 belongs to her. She further stated that A1 filed a petition under Section 9 of H.M.Act in O.P.No.154/2015 on the file of Family Court, Vijayawada in pursuance of the agreement dt.23.04.2015, Ex.D.8 is Agreement dt.23.04.2015 and Ex.D.9 is certified copy of Petition in O.P.No.154/2015 on the file of Honorable Family Court, Vijayawada. She further stated that on 17.08.2015 she has obtained Gold loan of Rs.92,000/- at Vijaya Bank, Vizianagaram and the said amount was withdrawn at one time by her and given to A1. She further stated that withdrawals were made by her as shown in the Bank account statement, Ex.D.10 is Account Statement of the gold loan obtained by P.W.1 vide account No.405901011001709 for Rs.92,000/- on 17.08.2015. She further stated that there is no withdrawal from the above said Bank transaction. She further stated that on 14.09.2015 she did not go to the School of her son. She further stated that she went to Satyanarayanapuram Police Station in Vijayawada at 9.00 am or 9.30 am, she did not inform the same to my father and her father came to know the same through my uncle at 10.00 or 11.00 am. She further stated that she came to know that her father reached to Vijayawada from Vizianagaram after her uncle informed about her visit to Police Station and no report was given on 14.09.2015 in Satyanarayanapuram Police Station, Vijayawada. She further stated that no legal notice was got issued by her when she reached Vizianagaram. She further stated that she gave report to the Police, six months after she reached Vizianagaram. She further stated that she does not know whether A1 was joined in Railways in the year 2002. She further stated that she does not remember whether

she has filed an application under RTI Act seeking the year of joining of A1 in Railway Department and the Railway Department gave information stating that the A1 joined in January, 2002.

11. The evidence of PW2 is that PW1 is his daughter and the marriage of P.W.1 was performed with A1 on 08.06.2010 in Mesanic Temple, Vizianagaram, at the time of marriage on the demand of accused, he gave Rs.15,00,000/- towards dowry and presented 15 Tulas of gold, after the marriage P.W.1 lead marital life with A1 for ten days, thereafter both the accused demanded P.W.1 to bring site or house in Vizianagaram and left P.W.1 at his house. He further stated that in the year 2012 he purchased an extent of 1000 Sq. Yards in the name of A1 and 300 Sq. Yards each on the name of A2 and P.W.1, thereafter A1 took P.W.1 for marital life and one year later A1 and A2 again started harassing P.W.1 by demanding additional dowry of Rs.10,00,000/-, for which he gave an amount of Rs.5,00,000/- to A1 and P.W.1 again joined A1. He further stated that in the year 2015, P.W.1 and A1 came to his house for Sankranthi festival where A1 left the P.W.1 at his house. He further stated that later A1 took P.W.1 to his house and pledged gold ornaments of P.W.1 in Vijaya Bank, Vizianagaram for Rs.98,000/- and later A1 and A2 harassed P.W.1 by threatening her to sign on empty promissory note and white papers by 5 PM, if she does not do so, they will kill her. He further stated that in the year 2015 on one day, A1 and A2 necked out P.W.1 and her child, on that P.W.1 gave report to Police. .

During cross-examination PW2 stated that he has been working in the Police Department since 1982 and he was promoted as Circle Inspector in the year 2012. He further stated that he is having Pan card, Aadhar card and Pink ration card and he did not make any corrections in the above said cards. He further stated that in the Ration card issued on 19-07-2005 it was mentioned that he is a Government servant and on

31-10-2005 a ration card was issued to him along with his photo mention he is agricultural labour. He further stated that he is filing income tax returns. He further stated that no steps were taken by him on the ration card and the same is in force and he adds that the ration card is not in force. He further stated that the deposing evidence by writing information on the path is a wrong and he knows the same. He further stated that he has to obtain permission from the Government before purchasing or selling any immovable property. He further stated that he does not remember after how many days he was examined by police after giving Ex.P.1. He further stated that he did not show the alleged payments of dowry in Income tax returns and did not inform the same to police department. He further stated that no permission was obtained from their Department for selling the property in Bobbili. He further stated that he did not Inform the existence of property in Bobbili to his Department. He further stated that he did not give the documents relating to sale of Bobbili property to police and he did not state the particulars of sale consideration as well as the vendee before the Court. He further stated that himself and P.W.1 used to visit Vijaya Bank, Vizianagaram. He further stated that he did not state before the Court that A.1 pledged gold ornaments in Vijaya Bank, Vizianagaram for an amount of Rs. 98,000/-, he does not know the same. He further stated that L.W.11 (U. Srinivasarao) is his relative. He further stated that no complaint was given by them with regard to alleged demand of dowry as well as no notice was got issued. He further stated that he did not state the date, time and year of alleged demand of dowry. He further stated that the house of accused in Vijayawada is situated in a residential locality.

12. The evidence of PW3 is that himself, PW4 and 6 went along with P.W.2 for marriage alliance where P.W.2 presented an amount of Rs.15,00,000/- towards dowry, 5 tulas of gold to the accused and also

presented 8 of tulas of gold to P.W.1. He further stated that after the birth of boy child, PW2 also gave 1600 square yards site situated in Astalakshmi Temple, Vizianagaram and later P.W.2 informed him that A.1 harassed P.W.1 for want of dowry and A1 took the signatures of P.W.1 on white papers and harassed her for want of dowry and that P.W.1 gave report to the police.

During cross-examination PW3 stated that the father of P.W.1 is his brother-in-law and his house is situated to the opposite house of P.W.1 He further stated that he did not sign as an attestor in the document relating to 1600 square yards and he does not know the survey number and boundaries of 1600 square yards.

13. The evidence of PW4 is that the marriage of P.W.1 was performed with A.1 on 08.06.2010 and himself, P.W.6, P.W.2 and P.W.3 went to the house of accused and gave Rs.15,00,000/- towards dowry, 5 tulas of gold, thereafter he attended for the marriage. He further stated that P.W.1 and A.1 led marital life happily for a period of one year, thereafter P.W.1 gave birth to one boy child and later P.W.1 informed him that A.1 used to harass her for want of additional dowry and also insisting for execution of house on name of A1 and thereafter on the demand of accused, P.W.2 purchased land in extent of 300 square yards on the name of P.W.1, 1000 square yards of site on the name of A.1 and 300 square yards on the name of PW1, thereafter P.W.1 went for marital life and after six months she returned to her parents house.

During cross-examination PW4 stated that he worked as Jeep Driver under P.W.2 in the Police Department as Constable. He further stated that himself and P.W.2 belongs to different caste.

14. The evidence of PW5 is that he attended the marriage of PW1 with A1 about 2 years back and on one day he received phone call from PW1 and she informed that since two days, disputes arose between her and her husband and she requested him to come to

Satyanarayanapuram police station where he notice PW1 and he informed the matter to PW2 asking him to come to Vijayawada, on that PW2 rushed to Police Station, Vijayawada and brought PW1 to his house at Vizianagaram.

During cross-examination PW5 stated that he informed the matter to PW2 on previous day and he directly came to police station by starting from Vizianagaram on the previous day, on the next day he also went to police station.

15. The evidence of PW6 is that the marriage of PW1 with A1 was performed on 08.06.2010 at Mosanic Temple, Vizianagaram and at time of marriage the parents of PW1 gave dowry of Rs.15,00,000/- (Rupees Fifteen lakhs only), five tulas gold to A1, ten tulas gold to PW1 and presented Sare Saamaanulu worth of Rs.1,00,000/- (Rupees one lakh only) and after marriage PW1 joined A1 at Vijayawada. He further stated that out of wedlock, PW1 blessed with a male child and later accused started harassing PW1 for additional dowry and also demanded house site from her parents and later PW1's parents arranged Seventeen lakhs and the house site was registered an extent of 1000 sq. Yards in the name of A1, an extent of 300 sq. yards in the name of A2 and an extent of 300 sq. yards in the name of PW1 and four months later, A1 again started harassing PW1 for additional dowry of Rs.5,00,000/-for which PW2 gave five lakhs rupees to A1. PW6 further stated that later A1 again started demanding PW1 for additional dowry and A1 mortgaged PW1's gold and used the amount for his personal use. He further stated that A1 obtained signature of the PW1 on some Promissory note and blank papers and demanded three lakhs rupees of additional dowry and threatened to kill their son for which PW1 was vexed with the attitude of the A1 and gave report to Satyanarayapuram Police Station.

During cross-examination PW6 stated that himself and PW2 are residing in the same street since 18 years and he has cordial terms with

PW2 and help each other. He further stated that he does not know the contents of petition filed by PW1 against accused in District Legal Services Authority, Vizianagaram and he does not know the particulars of the bank and loan amount where A1 mortgage PW1's gold.

16. The evidence of PW7 Manager in Bank of Baroda, Kolkata is that PW1 is the account holder in Vijaya Bank, Vizianagaram and on 29.12.2015 Police enquired about the gold loan of PW1 in Vijaya Bank, Vizianagaram. He further stated that on 17.08.2015 PW1 pledged pair of gold bangles weighing 20 grams, one step chain weighing 16 grams, black beads chain weighing 20 grams total 56 grams for Rs.92,000/-

During cross-examination PW7 stated that PW1 used to take gold loan from their Bank regularly and after clearing the pledge amount, they handover the for the concerned gold to the person who has made pledge and not to any other person. He further stated that generally the loan amount for the pledge will be transferred to the saving account of the person who pledged the gold. He further stated that they write the description of the gold in loan application form. He further stated that he issued Ex.P2 to the Police on the oral requisition and Ex.D10 is the true copy of saving account book of PW1 issued by their bank. He further stated that as per Ex.D10 the loan amount of Rs.92,000/- was not drawn at a time and it was drawn partly on various dates at various time through ATM card.

17. The evidence of PW8 is that A1 is the Savings bank account holder in State Bank of Hyderabad, MG Road branch, Vizianagaram and on 29.12.2015 Police came to him and asked him account statement of A1 by submitting written requisition and accordingly he provided A1's savings account statement to the Police on their acknowledgement and that the above statement shows two deposits of amount of Rs.9,66,000/- and Rs.2,00,000/- on the same day.

During cross-examination PW8 stated that at the time of the



transaction of the said Ex.P3 he was not working at State Bank of Hyderabad at MG Road Branch, Vizianagaram. He further stated that he has no personal knowledge about the said transaction under Ex.P3 and Ex.P3 is silent with respect to the name of the person who deposited the amount and the purpose of the amount. He further stated that Ex.P3 does not include certificate under Bankers Book of Evidence Act.

18. The evidence of PW9 is that he used to work as Poojari at Anjaneya Swamy temple at Cantonment since 20 years and he knows PW1, PW2, A1 and A2 and he performed marriage of PW1 with A1 on 08.06.2010 at Mesanic Temple, Vizianagaram. During cross-examination he stated that he worked as police constable and retired in the year 2014.

19. The evidence of PW10 HC of Women PS, Vizianagaram is that he collected certified copies of document No.4786/2012 along with Encumbrance certificate vide No. 07/2016 from LW12/Pappala Butchinaidu, Sub Registrar, Bobbili with regard to Crime No.88/2015 which was registered u/sec 498-A, 406, 506 IPC and sec. 3 and 4 of DP Act.

During cross-examination PW10 deposed that he does not know the contents of Ex.P4. He further stated that copy of the written direction given to him by Sub Inspector of Police, Women Police Station, Vizianagaram to collect the Ex.P4 was not enclosed with Ex.P4. He further stated that he has not paid any challan to collect Ex.P4.

20. The evidence of PW11 is that on 09.01.2016 on the instructions of LW16/ Vekatarao, SI of Women PS, Vizianagaram he went to Vijayawada, examined PW5 and recorded his statement.

21. During cross-examination PW11 stated that before examining the witness, they inform in which case and crime he was being examined and also inform them in which station we are working. He further stated that he has not taken any assistance in Vijayawada Police station.

22. The evidence of PW12 (Investigating Officer) is that on 26.12.2015 at about 11.30 AM, he received report from PW1 and registered the same as case in Cr.No.88/2015 under section 498-A, 406, 506 of IPC and Sec. 3 and 4 DP Act of Women PS, Vizianagaram, examined PW1, PW2 and LW3/P.Ramanamma at Police station and recorded their statements. He further stated that on 27.12.2015, he examined PW3, PW4 and PW6 and recorded their statements. He further stated that on 29.12.2015, he addressed letter to the Bank Manager and obtained Loan statement (Ex.P2) of PW1, examined the Bank Manager (PW7) and recorded his statement. He further stated that on the same day he visited State Bank of Hyderabad, Vizianagaram and obtained Savings account statement (Ex.P3) of A1, examined Bank Manager (PW8) and recorded his statement. He further stated that on 04.01.2016, he visited Joint Sub Registrar office, Vizianagaram West and obtained Encumbrance certificate of Doc No.s 716/12 and 717/12, dated 29.02.2012, examined Joint Sub Registrar LW10/B.Ramesh Kumar and recorded his statement. He further stated that on 18.01.2016, PW10 obtained Encumbrance certificate and Doc No.4786/2012 dated 18.10.2012, examined and record the statement of Sub Registrar, Bobbili LW12/P.Butchi Naidu. He further stated that after completion of investigation, LW16/A. Venkatrao, SI of Women PS, Vizianagaram filed charge sheet.

During cross-examination PW12 stated that PW2 worked worked as Inspector in Communication Department in Police from 2012 and during the period of Registration of this case and he was superior to his Rank. He further stated that PW4 used to work in their Police Department at the time of investigation of this case. He further stated that he has not examined the neighbours of PW1 and A1's house. He further stated that PW1 and A1 matrimonial house was situated in a residential colony. He further stated that PW1 did not state before him

that amount of Rs.1,00,000/- was given to A1 towards Saare saamanulu and subsequently A1 purchased articles in his name. He further stated that he did not make any enquiry to ascertain whether A1 was attending duties at Vijayawada at the time of his investigation. He further stated that LW16/Venkatrao made an enquiry whether A1 is attending duties at Vijayawada but at that time A1 was on leave. LW16/Venkatrao deputed one of our staff to apprehend A1. He further stated that LW16 did not mention in CD file nor in Charge sheet whom LW16 deputed to apprehend A1 and on which date deputed staff to make an enquiry. He further stated that relying on the para in Charge sheet "since registration of FIR A1 went on leave from his job and both the accused were absconded to evade arrest and there whereabouts are not known", he is of the impression that LW16 might have deputed one of the staff to make an enquiry about A1 and he has no personal knowledge. He further stated that as per CD file LW16 did not obtain any certificate from the employer of A1 to ascertain the above facts. He further stated that on 08.06.2016 he deputed HC 847 and PC 104 to make enquiry about A1 at his residential place. He further stated that the above HC 847 and PC 104 whom he has deputed to make enquiry to A1 was not cited as witness in this case and the said aspect is also not mentioned in the Charge sheet. He further stated that he has not made any enquiry about the aspect that from whom and when PW2 took loan of Rs.17,00,000/- to purchase the house site in the name of PW1. He further stated that PW1 and PW2 also did not state with respect to the above aspect. He further stated that he has not secure any document to prove that PW2 took loan Rs.17,00,000/- for the purchase of house site in the name of PW1. He further stated that PW2 being Police officer has to obtain permission from the Higher Authorities to purchase any land or site. He further stated that he does not know Whether PW1 gave any complaint to Police earlier to the Ex.P1. He further stated that prior to the filing of Ex.P1

there is PLC filed in DLSA, Vizianagaram by the PW1 against Accused. He further stated that he does not know whether A1 filed a petition OP No.154/2015 on the file of Hon'ble Judge, Family Court at Vijayawada for restitution of conjugal life. He further stated that he has not enquired whether A1 was attending duty during the 1<sup>st</sup> week of February, 2012 in Vijayawada. He further stated that FIR Ex.P5 was not registered at the above said point of time. He further stated that he has not enquired Vijaya Bank Manager, Vizianagaram, whether A1 took any loan from their bank. He further stated that generally loan amount would be credited to the savings account of applicant. He further stated that he has not obtained statement of the gold loan amount credited in saving account of PW1. He further stated that he has not paid any challan to obtain Ex.P8 and P9. He further stated that he obtained Ex.P8 and P9 through official correspondence. He further stated that he does not know whether certified copy of any registered document and Encumbrance certificate will be issued only on payment of challan. He further stated that he has not examined vendors in Ex.P8 and P9 and he has no personal knowledge of Ex.P8 and P9. He further stated that he has not examined Manager of SBH to know whether A1 obtained loan prior to the Ex.P8 and P9. He further stated that PW1 did not state before him that her parents gave Rs.15,00,000/- to accused towards dowry at the time of marriage. He further stated that PW1 stated to him that her parents gave Rs.15,00,000/- to accused before day of marriage towards dowry. He further stated that as per the recitals of document Ex.P4 there was no advancing of amount prior to its execution. He further stated that as per the recitals of document Ex.P4 each vendor gets Rs.2,12,500/- respectively. He further stated that he does not know whether PW2 got permission from the Higher Authorities to sell the property covered under Ex.P4. He further stated that as per his investigation PW2 went to Vijayawada on 14.09.2015 and brought PW1 to Vizianagaram. He further

stated that from that time to lodging of complaint by PW1 is about three and half months. He further stated that PW2 did not state before him that after 10 days of marriage of PW1, A1 demanded him to purchase site or house in his name in Vizianagaram. He further stated that PW2 did not state before him that after one year of marriage of PW1, A1 demanded additional dowry of Rs.10,00,000/- and the matter was placed before the elders and he gave Rs.5,00,000/- to the A1 by taking advance by selling his ancestral property. He further stated that PW2 stated before him that above said fact took place after two years of marriage of PW1. He further stated that PW2 did not state before him that in the year 2012 A1 and PW1 came to his house for Sankranti festival and left PW1 at his house and thereafter A1 did take PW1 back. He further stated that PW2 did not state before him that in the year 2015 on one day A1 and A2 necked out PW1 and her child and on the next day PW1 made a call to one of his relative by name Srinivas who is working in Court, Vijayawada and he informed him and immediately he rushed to the Vijayawada. He further stated that PW2 did not state before him that PW1 filed PLC before DLSA, Vizianagaram and the same was closed by the court and the same was not settled. He further stated that PW3 and PW6 did not state before him that PW2 gave Rs.15,00,000/- towards dowry at the time of marriage. He further stated that PW6 stated before him that he came to know harassment meted out by PW1 in the hands of A1 through PW2. He further stated that he does not know whether PW1 was availing gold loan prior to her marriage. He further stated that Ex.P3 is not certified under Banker Book of evidence. He further stated that except date 11.09.2015 and 14.09.2015 with respect to the alleged incident at Vijayawada no other dates was specified by PW1 with respect to harass and manner of harassment by A1. He further stated that one O. Ramesh, Advocate issued notice to him along with the Hon'ble High Court orders on the instruction of A1. He further stated that Ex.D11 is the lawyer's notice

along with Honourable High Court orders along with Courier receipt. He further stated that as per the above said Hon'ble High Court orders LW16 should not arrest A1 and A2. He further stated that LW16 did not mention about the Hon'ble High Court orders and shown A1 and A2 as absconding in the Charge sheet.

23. **Decision , Discussion and reasons thereof:**

- ➔ Accusation here in against Accused is he received Dowry at the time of marriage and after marriage he harassed PW1 demanding additional dowry and he has utilized all the money for himself thus committed criminal breach of trust and also threatened PW1 thus committed the offence of criminal intimidation.
- ➔ Section 3 of Dowry prohibition Act clearly defines the offence as whoever gives or takes Dowry comes under clutches of the Law and punishable. If A1 and A2 were held for demanding Dowry why PW2 father of the PW1 who is also police official well aware of Law has given the Dowry and not taken action against A1 and A2. Instead he alleges he has paid 15,00,000/- dowry to A1 and A2. PW2 also comes under the purview of Law and he is also liable for punishment. Here another notion would be taken if it is treated as present made to A1 at the time of marriage which is exemption to this section of law. But the presentations were to be listed and signed by either parties as per mandate of law. That is also not the case here.
- ➔ Prosecution has produced bank statement of A1 dated 7/6/2010 to show his account was deposited by the amounts of Rs 9,66,000/- and Rs 2,00,000/- and got it exhibited through bank manger to prove the amount of Rs 15,00,000/- was given to accused by PW2 before day of the marriage. Here prosecution has not lead any evidence how PW2 paid such huge amount. Whether he obtained loan or he paid from his savings. There might be some document to prove how he raised such

huge amount to present the dowry. In the absence of such evidence ExP3 cannot be relied upon. A1 is working in Railway in respectable job and has opportunity to raise such amount even to spent for his marriage expenses. There cannot be a conclusive theory that the entire marriage expenses from both sides would be taken care of the parents of bride. if such is the case they have to produce reliable evidence. The court arrived at the conclusion that whatever the things presented at the time of marriage of PW1 is only presentation though prosecution witnesses has stated that at the time of marriage of PW1 dowry and gold was give to accused. Because if there is demand from accused ,PW2 being police official might have initiated action against Accused. PW2 considered at the time of marriage as presentation and presented it without taking action and when marriage tie was strained with misunderstanding between A1 and PW1 and then PW1 and PW2 cannot take stand of dowry subsequently in the year 2016 when marriage took place in the year 2010.

➔ PW1 has stated that A1 and A2 looked after her well till son was born to her on 2/9/2011 and thereafter A1 and A2 demanded additional dowry to purchase house site at Vizianagram. But PW2 has stated that after 10 days of marriage of PW1, A1 demanded house or site in Vizianagaram and he placed the matter before the elders. PW2 further stated he has requested one month time and A1 stated to him that 1600 sq yards place is available at ayyenpeta. At this juncture other side counsel objected stating he is seeing his palm and answering and some thing is written in his palm and court made this observation and recorded .PW2 further stated he purchased 1000sq yards in the name of A1,300 sq yards in the name of PW1 and 300 sq yards in the name of the A2. PW2 has not placed any piece evidence how he raised such huge amount of 17,00,000/- i.e., whether he obtained loan or he paid from his saving and whether he obtained any

permission from his higher authority to purchase the house site. Moreover PW1 admitted ExD4 to D6. Perusal of these documents reveals A1 applied for permission from his higher officials for purchase of sites in his name and in the name of PW1 and A2 and loan agreement issued by the concern bank showing the loan amount and installment amount which should be deducted from the salary of A1. The above set of facts clearly elucidates contradictions and no way sync with the testimony of PW1 and PW2 who stated that PW2 by obtaining loan purchased the site in the name of A1, PW1 and A2.

→ PW1 stated that on 12.8.2012 they gave Rs 5,00,000/- in Vizianagram and she does not remember the place. PW2 has stated that one year after he purchased the property in names of A1, PW1 and A2 again A1 and A2 started to harass PW1 then he placed the matter before elders in the year 2013 and he gave amount of Rs 5,00,000/- to A1 by taking advance for selling his ancestral property situated at Bobbili. Which is quite contraction to the document Exp4 dated 18/10/2012 registered sale deed executed by the PW2 for consideration of Rs 4,25,000/- with respect to site in his name at Bobbili. PW2 sold away the property in the year 2012 and how he could by taking advance for selling property he gave amount in the 2013 which renders both the testimony of PW1 and PW2 not worthy to relied upon.

→ PW2 stated by pledging her jewelry she has given an amount of RS 92,000/- to A1 but she made her clear admission that her bank account in vijaya bank was used by her parents through ATM card and she further admitted the ExD10 as the statement of her bank account. ExD10 reveals the amount not withdrawn at a time making her testimony that by pledging her jewelry she gave an amount of Rs 92,000/- not reliable. PW1 and PW2 stated PW1 went to Vijayawada police when A1 harassed her and on the intimation of his friend he



went to Vijayawada and brought PW1 back to Vizianagram. No piece of evidence was produced to show PW1 gave report to Vijayawada police station or prosecution did not lead evidence examining any police personnel who attended PW1 when she went to give complaint to Vijayawada police station.

- In the light of the above discussion Contradictory and unreliable testimonies of PW1 and PW2 coupled with ExP1 to P9 and ExD1 to D11 along with testimonies of other prosecution witnesses which has no sequence and corroboration ,rendered the prosecution case futile.
- All the above stated attending circumstances leads to conclude that the prosecution has not placed reliable evidence to hold accused under section 406,498A,506 of Indian penal code and section 3 and 4 of Dowry prohibition Act. Hence prosecution miserably failed to drive home guilt of A1 and A2 for offences punishable under sections 406,498A,506 of Indian penal code and section 3 and 4 of Dowry prohibition Act. Accordingly the point is answered in favour of accused and against prosecution.

24. ***In the result***, A1 and A2 are found not guilty for the offences under section 498-A, 406, 506 of IPC and Sec.3 and 4 of Dowry Prohibition Act and they are acquitted u/s 248(1) of Cr.P.C., for the said offences.

*Typed to my dictation by the Stenographer Grade II, corrected and pronounced by me in open Court, this the 16th day of December, 2022.*

Sd/- K.M. Zamruth Begum  
Spl. Judicial Magistrate of I Class (Mobile)-cum-  
II Addl. Junior Civil Judge, Vizianagaram.

**APPENDIX OF EVIDENCE**  
**WITNESSES EXAMINED**

**FOR PROSECUTION:**

PW1: Patntla Kiranmai  
PW2: Pathivada Venkata Ramana Murthy  
PW3: Burada Suryanarayana  
PW4: Kambeti Sanyasi Rao  
PW5: U. Srinivasa Rao  
PW6: Thadi Seetharam

**FOR DEFENCE :**

-NIL -

PW7: Mankala Gopi  
 PW8: Ashwini KUMar Sahoo  
 PW9: V.V.S.N. Murthy  
 PW10: B. Laxmana Rao  
 PW11: M. Trinadha Rao, HC of police  
 PW12: B. Lakshmana Rao, SI of police.

**DOCUMENTS MARKED**

**FOR PROSECUTION:**

Ex.P1: Report given by PW1 to the police  
 Ex.P2: Bank gold loan account statement of PW1 from 17.8.2015 to 29.9.2015.  
 Ex.P3: Saving Bank account statement of A1 pertaining to the date 7.6.2010.  
 Ex.P4: Certified copy of document No.4786/2012 and Encumbrance certificate vide No.07/2016.  
 Ex.P5: FIR in Cr.No.88/2016  
 Ex.P6: Wedding card.  
 Ex.P7: Marriage photographs two in number of PW1.  
 Ex.P8: Certified copy of Encumbrance certificate along with Doc No.716/2012 Dt.29.2.2012.  
 Ex.P9: Certified copy of Encumbrance certificate along with Doc No.717/2012 Dt.29.2.2012.

**FOR DEFENCE:-**

Ex.D1: Nine photos of some of the house hold articles of saresamans with CD  
 Ex.D2: Six bills of purchase of refrigerator, washing machine, divan cot, mattress, one almyrah and two job sheets with different dates.  
 Ex.D3: Certified copy of Lok Adalat Award dt.1.5.2015 of Lok Adalat, Vijayawada along with petition in FCOP No.154/2015.  
 Ex.D4: Application submitted by the P.W.1 to the Senior Divisional Personnel Officer, South Central Railway, Vijayawada.  
 Ex.D.5: Reply issued by Senior Divisional Personnel Officer, South Central Railway, Vijayawada.  
 Ex.D.6 Loan arrangement letter dt.01.10.2018.  
 Ex.D.7 Copy of Petition in PLC No.115/2017 along with Docket Order dt.22.08.2015.  
 Ex.D.8 Agreement dt. 23.04.2015.  
 Ex.D.9 Certified copy of Petition in O.P.No.154/2015 on the file of Honourable Family Court, Vijayawada.  
 Ex.D.10 Account Statement of the gold loan obtained by P.W.1 vide account No.405901011001709 for Rs.92,000/- on 17.08.2015.  
 Ex.D.11: Lawyer's notice along with Hon'ble High Court orders along with courier receipt.

**MATERIAL OBJECTS**

- NIL -

*Sd/- K.M. Zamruth Begum*

Spl. Judicial Magistrate of I Class (Mobile)-cum-  
 II Addl. Junior Civil Judge, Vizianagaram.