

IN THE COURT OF IV ADDITIONAL CHIEF METROPOLITAN
MAGISTRATE-CUM-ADDITIONAL MAHILA MAGISTRATE, VIJAYAWADA.

Present: Dr. Y. BINDU MADHAVI,

IV Additional Chief Metropolitan Magistrate-cum-Additional
Mahila Magistrate, Vijayawada.

Wednesday, this the 12th day of October, 2022

Calendar Case No.4634/2022

Between:

State Represented by Sub-Inspector of Police,
Kankipadu P.S. Vijayawada City.

...Complainant

And

Garike Vasu, S/o Venkateswara Rao, aged 35 years, C/Yerukula, R/o.
Putta Road, Bandar Channel, Edupugallu Village, Kankipadu Mandal,
Krishna District.

...Accused

This case is coming 10.10.2022 for final hearing before me in the
presence of the learned Assistant Public Prosecutor for the Complainant/
State and the accused in person and having stood over for consideration
till this day, this court delivered the following:

J U D G M E N T

The Sub-Inspector of Police, Kankipadu Police station laid
charge sheet against the accused in Crime No.403/2022 for the offence
punishable U/Sec.498-A of IPC.

02. The case of the prosecution in brief is that the marriage of
Pw.1 was performed with the accused about 15 years prior to the report
and the same was love marriage. The accused and Pw.1 lived happily for
some time. During the wedlock, they were blessed with two children. The
accused addicted to bad vices like drinking alcohol, harassed Pw.1 both
mentally and physically, assaulted Pw.1 with hands. Pw.1 endured all the
harassments made by the accused patiently with a fond hope that he
would change and her problems would be set right. Instead of changing
his attitude, the accused continued his harassment and subjected Pw.1 to
cruelty. On 09.09.2022 at about 8.00 pm, the accused beat Pw.1 with
hands indiscriminately. Due to unbearable harassment, Pw.1 presented
the report to the police.

03. Basing on the report of Pw.1, Lw.6/W.A.S.I of police,
registered the same as case in Cr.No.403/2022 U/Sec.498-A of IPC
against the accused and took up investigation, by examining the
witnesses, recording their statements, followed the arrest procedure and
upon completion of the investigation, laid charge sheet against the
accused.

04. This case was taken on file against the accused for the offence punishable **U/Sec.498-A of IPC.**

05. On appearance of the accused before the court, copies of case documents were furnished to the accused as contemplated **U/s. 207 Cr.P.C.**

06. The accused was examined **U/s.239 Cr.P.C.**, explaining the accusation made against him, for which he denied the same. Charge **U/Sec.498-A of IPC** was framed against the accused, read over and explained to him in Telugu, for which, he pleaded not guilty and claimed to be tried.

07. During the course of trial, on behalf of prosecution, Lw.1/Garika Sridevi is examined as Pw.1 and exhibited Exs.P1 and P2. Ex.P1 is signature of Pw.1 on report. Ex.P2 is 161 Cr.P.C. statement of Pw.1. The learned APP has given up the evidence of Lws.2 to 6 i.e. Paidimukkala Kanaka Durga, Paidimukkala Venkata Sivaiah, Joraka Veeramma, Kokkiligadda Joseph and Smt. J. Lakshmi as not necessary.

08. Since no incriminating material levied against the accused in the evidence of Pw.1, the examination of accused under **Sec.313 Cr.P.C.**, is dispensed with.

09. Heard arguments of the learned APP and the accused, perused the material on record.

10. Now the point for determination is:

“Whether the prosecution is able to prove the guilt of accused for the offence punishable U/Sec.498-A of IPC beyond reasonable doubt”?

POINT:-

11. In order to prove the guilt of accused U/s 498-A of IPC, the prosecution shall establish that the accused is the husband of Pw.1, committed cruelty against her, i.e., any willful conduct which is of such a nature as is likely to drive her to commit suicide or to cause grave injury or danger to life, limb or health whether mental or physical of the woman; or harassment of the woman by demanding property or otherwise.

12. Unfolding the case of the prosecution, the prosecution has examined Pw.1 on its behalf. Pw.1 is the defacto complainant who gave report against the accused before Kankipadu P.S.

13. P.w.1 testifies that she presented the report against the accused due to petty disputes between herself and the accused and upon

advise of elders. She admitted her signature in the report under Ex.P1, but she stated that she does not know the contents in the said report. Therefore, Pw.1 who is the defacto complainant did not support the version of the prosecution and exhibited hostility. Hence, the learned Assistant Public Prosecutor sought permission to cross examine them as she resiled from her prior version, accordingly, the learned APP cross examined the witness at length, but could not elicit anything except marking the signature of Pw.1 in the report and 161 Cr.P.C statement of Pw.1 as Exs.P1 and P2. On perusal of the evidence of Pw.1 shows that she totally contradicted the version of the prosecution. As such, absolutely, there is no evidence about the material aspects of commission of offence by the accused. Mere marking of documents is no way helpful to the case of the prosecution.

14. Further, it apparently reveals from the record that the defacto complainant and the accused have compromised, since Pw.1 admitted that she compromised with the accused and that herself and accused have been living together for the past 17 years, thus, Pw.1 did not support the version of the prosecution. Hence, no useful purpose would be served in examining the other witnesses. Therefore, the learned APP has given up the evidence of remaining witnesses, even they are examined, no useful purpose can be served as the person who is the alleged victim exhibited hostility. Viewed from any angle, the prosecution miserably failed in proving their case against the accused, in view of the hostile attitude of the defacto complainant.

15. In the light of above discussion, the prosecution failed in establishing the case against accused for the offence punishable U/Sec.498-A of IPC. Hence, the prosecution failed to establish the charge leveled against the accused. Accordingly, this point is answered against the prosecution.

16. In the result, this court find the accused is not guilty for the offence punishable U/Sec.498-A of IPC. Accordingly, he is acquitted U/Sec.248 (1) Cr.P.C. The bail bonds of accused shall remain in force for a period of six months as contemplated under sec.437-A Cr.P.C.

Typed to dictation to the Stenographer, corrected and pronounced by me in the open court, on this the 12th day of October, 2022.

Sd/-XXXXX

IV Addl. Chief Metropolitan Magistrate-cum-
Addl. Mahila Magistrate, Vijayawada.

**APPENDIX OF EVIDENCE
WITNESSES EXAMINED**

For Prosecution.

P.W.1: Garike Sridevi

For Defence.

...None...

DOCUMENTS MARKED

For Prosecution:

Ex.P.1: Signature of Pw.1 on Report

Ex.P.2: 161 Cr.P.C. Statement of Pw.1

Sd/-XXXXXX

IV Addl. Chief Metropolitan Magistrate-cum-
Addl. Mahila Magistrate, Vijayawada.