

**IN THE COURT OF I ADDL. CHIEF METROPOLITAN MAGISTRATE,
VISAKHAPATNAM**

**PRESENT: Sri Ch. YUGANDHAR
I ADDL. CHIEF METROPOLITAN MAGISTRATE
VISAKHAPATNAM**

Wednesday, this the 31st day of January, 2024

Calendar Case No.1335/2014

Between :

State represented by its Sub-Inspector of Police, IV Town Police Station,
Visakhapatnam City.

... Complainant

And

1. Vissarapu Venkata Surya Subramanyam, S/o late Narayana Murthy, 35 years, R/o D.No.43-4-8, Railway New Colony, Visakhapatnam City, N/o Lakshmipuram (v), Chodavaram, Visakhapatna City, working as Jr. Assistant-cum-Asst. Computer Operator in the Agriculture Office (out sourcing system) at Anakapalli

2. Chennamsetti Chinnam Naidu, S/o late Atcham Naidu, 52 years, R/o D.No.95/13, Beechupalli (V & PO), Kudbullapur (M), Rangareddy District, Kudubullapur PS Limits, N/o Kithampeta (V), T.Arjapuram Post, Ravikamatam (M), Visakhapatnam District, working as Packing Labour in Reddi Labs and LIC Agent

3. Chennamsetty Satyaveni, W/o Chinnamnaidu, 44 years, Housewife, R/o S.No.95/13, Beechupalli (V & PO), Kudbullapur (M), Rangareddy District, Kudubullapur PS Limits, N/o Kithampeta(V), T.Arjapuram Post, Ravikamatam (M), Visakhapatnam District.

... Accused

This case is coming on 17.01.2024 for final hearing before me in the presence of Learned Asst. Public Prosecutor for state and of Sri N.Trivikrama Rao, Advocate for Accused and upon hearing both sides and having been 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, IV Town Police Station, Visakhapatnam City filed charge sheet in Cr.No.483/2012 against the accused for the offence u/secs. 498-A, 494 IPC and Sections 3 & 4 of Dowry Prohibition Act.

2. The case of the prosecution as per the contents of the charge sheet in

brief are that PW.1 is a legally wedded wife of A1 as their marriage was performed on 03-04-2010 in the presence of the elders in Venkateswara Kalyanamandapam, Chodavaram as per their Caste and customs. At the time of the marriage, the elders of P.W1 had presented an amount of Rs.7 Lakhs as dowry and other lanchanams i.e., Hero Honda Motor cycle, 2 tulas of gold, T.V., Alymarah and Refrigerator to A1 on their demand. At the time of the marriage, the accused informed that A1 was working in Agricultural Department at Anakapalli as Out sourcing employee. After the marriage, P.W1 and A1 took a rented house in Visakhapatnam and lead their marital life. A1 looked after P.W1 well only for four months and subsequently A1 started harassing towards P.W1 mentally and physically at the instigation of A2 and A3 by demanding P.W1 to bring additional dowry of Rs.5 Lakhs enabling him to get his job permanent. Further the accused also demanded the money on the pretext that P.W1 got Grahanam Morri (Cleft lip) and maintained distance without choosing conjugal life with her. Further A1 at the instigation of A2 & A3 got married the daughter of A2 & A3 by name Devika Rani at Annavaram Devasthnam.

3. Upon that P.W1 gave report to S.H.O., IV Town P.S., VSP under Ex.P1. Accordingly, Ex.P1 was registered a case in Cr.No.483/2012 for the offence punishable under sec. 498-A, 494 IPC and sec. 3 & 4 of DP Act by P.W3 and issued FIR under Ex.P2. During the course of investigation, P.W3 being the investigating officer in this case had examined and recorded the statements of P.W1 and some other witnesses as shown in the charge sheet. Later A1 to

A3 were arrested by him and send them for judicial custody. Subsequently, the then Inspector of Police of IV Town P.S, VSP by name D.S.R.V.S.N.Murthy(L.W.8) had taken up the investigation and examined P.W2 and recorded the statement and after completion of the investigation he filed charge sheet against A1 to A3 for the said offences.

4. After accused appeared before this court, necessary copies of case documents were furnished to them as required under Section 207 CrPC.

5. Accused were examined under S.239 CrPC and charges framed for the offences U/sections 498-A, 494 IPC and Sections 3 & 4 of Dowry Prohibition Act, read over and explained to them for which they denied the same, pleaded not guilty and claimed to be tried.

6. During the course of trial, prosecution examined the witnesses PWs1 to 3 and Exs.P1 to P.4 were marked on their behalf. On behalf of accused none were examined but Ex.D.1 is marked during the cross-examination of PW.1.

7. After closure of evidence on behalf of prosecution, accused was examined u/s.313 CrPC by explaining the incriminating circumstances found from the evidence of prosecution witnesses, for which, accused denied the same and reported no defence evidence.

8. Heard the arguments of learned Asst. Public Prosecutor and Learned Counsel for defence.

9. The point that arises for determination is:
Whether the prosecution proved the guilt of the Accused for the offences punishable U/Secs.498-A and 494 of I.P.C. and Sections 3 & 4 of Dowry Prohibition Act beyond reasonable doubt" ?

POINT:

10. During trial, the prosecution examined the witnesses P.Ws.1 to 3. It is pertinent to note that the prosecution did not examine the witnesses L.W2/Katari Gopi Krishna who is elder brother of P.W1, L.W3/Katari Bhagavathi who is wife of elder brother of P.W1, L.W4/Katari Kalyani Ranghanadham who is mother of P.W1, L.W.5/Jakkampudi Sita Maha Lakshmi who is the house owner in whose house P.W1 and A1 resided together for some time as tenants. On behalf of the prosecution, reports filed stating that their whereabouts are not known as per the docket order, dt.15-11-2023.

11. Now it has to be seen the veracity of the evidence of P.W1 and P.W2 who are brother and sister and whose evidence alone is available on the record to implicate the accused for the alleged charged offences.

12. According to P.W1, she married to A1 on 03-04-2010 in Venkateswara Kalyanamandapam at Chodavaram as per Hindu Rites and Caste Customs in the presence of elders and at the time of the marriage, the parents of her presented an amount of Rs.7 Lakhs towards dowry to the accused apart from presentation of 2 tulas of gold, wrist watch, gold ring, house hold articles like Alymarah, cot and Refrigerator and motor cycle to A1. After the marriage, she and A1 joined together at Railway New Colony, Visakhapatnam as by that time she was working as Lab Technician in Manipal Women and Child Hospital. During holidays they used to go to their in-laws place I.e, Lakshmipuram, Chodavaram. They both lived together

happily for about one year. Later the harassment started against her. During relevant time, her husband was working in Agricultural Department at Anakapalli as Outsourcing Employee. Her husband started demanding her to bring Rs.5 Lakhs so as to get his job permanent. She has also informed to her parents but her parents expressed their inability to provide huge amount of Rs.5 Lakhs as they have already spent much amount for solemnization of her marriage. Since then her husband A1 harassed her by abusing her and also used to beat her. From there onwards, he never take her to her in-laws place. Meanwhile, her father passed away. After the death of her father, her mother got some amounts as such, her mother has provided an amount of Rs.4 Lakhs to her husband/A1. At the time, her husband/A1 promised to them that he would take land in Chodavaram in her name for that amount. But her husband/A1 got registered the said land on his name only instead of her name. On that, when she questioned, he convinced her that she is non local for the Chodavaram area as such, it would be feasible for him to construct a house in the said land. However, even during that time, he continued the perpetration of harassment against her. Her husband/A1 quit from his job in Agricultural Department in the year, 2012 and joined in a Private consultancy at Maddilapalem, Visakhapatnam. Meanwhile, A2 & A3 asked her to provide additional amount of Rs.5 Lakhs so as to get permanent job for her husband/A1, otherwise, they would perform another marriage to her husband/A1. From there onwards, her husband/A1

maintained distance from her and did not even talk to her and he never took her anywhere along with him.

13. On one occasion, her husband/A1 went to Annavaram along with A2 & A3 and got married the daughter of A2 & A3 by name Devika Rani on the pretext of going to Hyderabad on his office work. Four days thereafter, when her husband/A1 returned home she could see the photographs and videos of second marriage of her husband in the Camera available with her husband. Then she questioned her husband and also informed the same to her brothers and her mother. Immediately, she also proceeded to lodge report on 01-12-2012 under Ex.P1 before S.H.O., IV Town P.S, VSP.

14. P.W2 is the one of the elder brothers of P.W1, who has also narrated in the same lines of P.W1 with regard to the solemnization of marriage, presentations, amounts & gifts in the form of alleged dowry and the second marriage of A1 with the daughter of A2 & A3. 15. P.W3 is the Investigating officer who deposed the chronological events of his investigation.

15. On perusal of entire evidence, it is astonishing that the very close relatives of P.W1 i.e., mother, brother and the owner of the house were not examined on the account of their non availability. The police concerned may not be secure the presence of the above said witnesses, but it could not be a big task for P.W1 to get her own mother and the family members of her brother and owner of the said house. On the other hand, P.W2 who is no

other than another brother of P.W1 was examined. It seems that the mother, sister and other brothers of P.W1 except P.W2, did not chose to support to P.W1. Otherwise it can be said that P.W1 did not deligent in prosecuting the matter for the reasons best known to her. However, P.W2 is one of the brothers of P.W1 who might have stated about the presentation of alleged dowry as stated by P.W1, no cogent proof is placed before this court except their bald assertions and self serving statements.

16. Be that as it may, as regards to the alleged harassment, P.W2 did not give enough details except stating that the accused started demanding her to bring additional dowry of Rs. 5 Lakhs so as to get A1 permanent in his Agricultural Department and when they could not provide the said amount, A2 & A3 came forward and made a proposal that they would pay the said Rs.5 Lakhs for job of A1 and performed the marriage of their daughter with A1 at Annavaram. But A1 quit the said job in Agricultural Department and joined in another private company. Had A2 and A3 provide the said amount for A1 to get job permenant in the Agricultural Department by performing the marriage between A1 and their daughter, there is no necessity for A1 to quit the job in Agricultural Department. Thus, the purpose of demand of amount as alleged by P.W1 does not fit into the circumstance.

17. When the evidence of P.W1 and P.W2 alone is available on the record who are no other than the sister and brother, thus, they both can be treated as partisan witnesses. Hence, their evidence has been scrutinized with

careful circumspect in order to implicate the accused for the alleged offences.

18. During cross-examination, P.W2 being the elder brother of P.W1 categorically stated that he does not have personal knowledge with regard to the disputes between P.W1 and A1 except knowing all these things only through P.W1. He also further stated in the cross-examination that he never visited the house of A1 when A1 said to have resided along with the said Devika Rani at any point of time. He further stated that A1 relinquished his rights over the said house property and transferred the entire house property in the name of his sister/P.W1.

19. So in view of the information elicited from P.W2, it makes clear that P.W2 is only here say witness and he does not have any personal knowledge. Thus, his evidence became insignificant.

20. Absolutely there is no documentary evidence to show that the dowry of Rs.7 Lakhs was presented apart from Adapaduchu Katnam of Rs.50,000/- to the accused at the time of marriage. The marriage elders were also not examined by the investigating officer to prove the said fact. Further the amount of Rs.7 Lakhs is not a small amount, so naturally sufficient material is supposed to be available in order to ascertaining as to how the said amount of Rs.7 Lakhs was procured by the mother of P.W1 at the time of marriage apart from other presentations in order to provide the same to the accused as dowry.

21. The another circumstances which has to be appreciated is that where P.W1 stated that on the demand of accused the mother of P.W1 has provided Rs.4 Lakhs to her husband/A1 on one occasion. Even for that also, except her self serving statement there was no any kind of documentary proof. Further P.W1 did not give enough details on which date the amount of Rs.4 Lakhs was provided to A1 by her mother after the marriage. Moreover, it is the claim of P.W1 that at the time of receipt of Rs.4 Lakhs, her husband/A1 assured her that he would purchase the land property on her name but to the contrary, he purchased the land on his name only. Even to that extent also no land document placed before this court to show the proximity of the payment of Rs. 4 Lakhs and purchase of land. Here, it is not out of the context to point out that the said fact of payment of Rs.4 lakhs and purchasing the said land on the name of A1 was not stated by P.W2 who is brother of P.W1.

22. Therefore, the presentation of dowry has not been proved sufficiently. As regards to the harassment as contemplated under sec. 498-A IPC, the evidence of P.W1 is that she was harassed by her husband/A1 by demanding her to bring Rs.5 Lakhs so as to get his job permanent and in that process, A1 used to abuse her and beat her. Except stating these things, she has not given any enough details with regard to the specific overtacts of A1 in perpetration of alleged harassment against her. She nowhere stated in her evidence that A2 & A3 also harassed her or they instigated A1 to harass her. The main grievance of P.W1 which can be gathered from her evidence that

her husband/A1 got married the daughter of A2 & A3 at Annavaram. Even to that effect, she did not place any documentary proof before this court. Moreover the prosecution did not examine any temple authorities or did not file any certificate of temple before this court to show that the marriage of A1 and the daughter of A2 & A3 was solemnized in the said temple. But P.W1 is stating that she had seen the photographs and videos of the said marriage in the camera which available with her husband/A1. She also did not give enough details on which date she could happened to see the said photographs and videograph in the said camera. Moreover, as per her evidence soon after knowing the alleged marriage, she preferred to lodge report to police. Had she really happened to see the photos and videos of the second marriage of her husband/A1, she should have got the said Camera by the investigating officer. But there is no instances that the investigating agency had seized the camera from A1 and secured the alleged photographs. Moreover, Ex.P1 report of P.W1 depicts that apart from A2 & A3 there are some other persons were alleged to have been present at the time of second marriage of her husband/A1 at Annavaram. Even those persons i.e., one Pappala Ravi, Chinnamsetty Sekhar, Chinnamsetty Bhavani and one Patalam Gitaarjuna were not examined by the investigation agency and the prosecution as well to prove the alleged second marriage of A1 and Devika Rani.

23. As regards to the proof of Sec.494 IPC, there must be cogent and convincing evidence with regard to the solemnization of second marriage

and its ceremonies. It is imperative upon the prosecution to establish the fact of the essential ceremonies of valid marriage between A1 and the said Devika Rani. In the absence of proof of second marriage, the offence under sec. 494 IPC cannot be attracted in the given circumstances.

24. Coming to the offence under section 498-A IPC, in order to bring home the charge against the accused it has to be established the cruelty as explained in Section 498-A IPC. P.W1 simply stated in her evidence that A1 used to abuse her and beat her. As observed above she has not given any enough details with regard to the alleged perpetration of harassment on the part of A1. Mere stating that she was abused and beaten by her husband/A1 for want of additional dowry alone cannot be amount to "cruelty" within the meaning of either limb (a) or limb (b) of the explanation attached to the section 498-A IPC. Thus, it can be said that the harassment for want of additional dowry has not been proved sufficiently. Moreover, during cross-examination P.W2 who categorically stated that A1 had relinquished his rights over the said house property and transferred the entire house property in the name of his sister/P.W1. Further it can be seen from the evidence of P.W1 that the accused sold the said site to her through a registered document on 18-10-2018. It seems that during pending of this case, the accused transferred the said property in the name of P.W1. As such, the prosecution or P.W1 should have offer specific clarification as to what circumstances were led for the accused to transfer the said property in the name of P.W1 in the year 2018. When P.W1 and the prosecution

remained silent with regard to the circumstances under which the alleged transaction took place on 18-10-2018, certainly it gives raise to suspect the bonafides of P.W1.

25. When there was no specific cogent evidence with regard to the alleged perpetration fo harassment on the part of A1, he cannot be fastened with criminal liability.

26. Considering all these circumstances, it can be said that the prosecution has failed to prove the guilt of accused no.1 to 3 for the offences under sec. 498-A, 494 IPC and sec. 3 &4 of DP Act.

27. In the result, accused Nos.1 to 3 are found **not guilty** for the charged offence punishable **U/Secs.498-A & 494 Indian Penal Code and Sections 3 & 4 Dowry Prohibition Act** and consequently, accused Nos.1 to 3 are acquitted U/s.**248 (1) Cr.P.C.** for the said charge. The bail bonds of accused shall be in force for a period of six months as contemplated under Section 437-A of Cr.P.C.

Dictated to Stenographer of this court, transcribed by him, corrected and pronounced by me on this day the 31st day of January,2024.

Sd/-

**I ADDL. CHIEF METROPOLITAN MAGISTRATE
VISAKHAPATNAM
APPENDIX OF EVIDENCE
WITNESSES EXAMINED**

For Prosecution

P.W.1 : Visarapu Jyothi

P.W.2 : Katari Srinivas

For Defence

-NIL-

P.W.3 : B.Rama Krishna Rao

DOCUMENTS MARKED

For Prosecution

Ex.P.1 : Report

Ex.P.2 : FIR

Ex.P.3 : Wedding Card of A.1 and PW.1

Ex.P.4 : Wedding Photograph of A.1 and PW.1

For Defence:

Ex.D.1 : Horoscope

MATERIAL OBJECTS:Nil

Sd/-

**I ADDL. CHIEF METROPOLITAN MAGISTRATE
VISAKHAPATNAM**

CALENDAR AND JUDGMENT**IN THE COURT OF I ADDL. CHIEF METROPOLITAN MAGISTRATE,
VISAKHAPATNAM.****C.C.No.1335/2014**

DATE OF						
Offence	Filing	Apprehension of Accused	Release on Bail	Commencement of Trial	Close of Trial	Sentence or Order
01 Prior to 01.12.2012	02 21.07.2014	03 -	04 -	05 28.04.2023	06 17.01.2024	07 31.01.2024

Complainant:

State represented by its Sub-Inspector of Police, IV Town Police Station, Visakhapatnam City.

Name and description of accused:

1. Vissarapu Venkata Surya Subramanyam, S/o late Narayana Murthy, 35 years, R/o D.No.43-4-8, Railway New Colony, Visakhapatnam City, N/o Lakshmipuram (v), Chodavaram, Visakhapatna City, working as Jr. Assistant-cum-Asst. Computer Operator in the Agriculture Office (out sourcing system) at Anakapalli

2. Chennamsetti Chinnam Naidu, S/o late Atcham Naidu, 52 years, R/o D.No.95/13, Beechupalli (V & PO), Kudbullapur (M), Rangareddy District, Kudubullapur PS Limits, N/o Kithampeta (V), T.Arjapuram Post, Ravikamatam (M), Visakhapatnam District, working as Packing Labour in Reddi Labs and LIC Agent

3. Chennamsetty Satyaveni, W/o Chinnamnaidu, 44 years, Housewife, R/o S.No.95/13, Beechupalli (V & PO), Kudbullapur (M), Rangareddy District, Kudubullapur PS Limits, N/o Kithampeta(V), T.Arjapuram Post, Ravikamatam (M), Visakhapatnam District.

Offence:under Sections 498-A & 494 IPC and Sections 3 & 4 of D.P. Act

Finding: Accused are found not guilty

Result: In the result, accused Nos.1 to 3 are found **not guilty** for the charged offence punishable **U/Secs.498-A & 494 Indian Penal Code and Sections 3 & 4 Dowry Prohibition Act** and

consequently, accused Nos.1 to 3 are acquitted U/s.**248 (1) Cr.P.C.** for the said charge. The bail bonds of accused shall be in force for a period of six months as contemplated under Section 437-A of Cr.P.C.

Explanation for delay and remarks:

The police did not produce the witnesses from time to time, hence the delay occurred.

This case was taken on file against the accused for the offence punishable under Sections 498-A & 494 IPC and Sections 3 & 4 of D.P. Act on 24.07.2014. Copies of the documents furnished to accused on 09.12.2015. After receipt of summons, accused appeared before this court and examined under section 239 Cr.P.C and framed charges for the offences punishable under Sections 498-A & 494 IPC and Sections 3 & 4 of D.P Act against them and read over said charges and explained to him in Telugu language for which Accused denied the same, pleaded 'not guilty' and claimed to be tried. PWs 1 to 3 are examined and got marked Exs.P1 to P.4 and none were examined on behalf of the defence but Ex.D.1 is marked during cross-examination. Accused were examined u/sec.313 Cr.P.C. by explaining the evidence of prosecution witnesses for which they denied and reported no defence evidence. Heard both side arguments on 31.01.2024 the Judgment has been pronounced.

Sd/-

**I ADDL. CHIEF METROPOLITAN MAGISTRATE,
VISAKHAPATNAM.**