

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31<sup>st</sup> DAY OF MARCH, 2023

BEFORE

THE HON'BLE MR. JUSTICE RAMACHANDRA D.HUDDAR

**CRIMINAL REVISION PETITION No.912/2014**

**BETWEEN:**

H.D.Naveen

... Petitioner

(By Sri Jagan Mohan M.T., Advocate)

**AND:**

State by Town Police  
Chitradurga  
Chitradurga District  
Represented by Public Prosecutor  
High Court Buildings  
Bengaluru 560 001.

... Respondent

(Sri K.Nageshwarappa, HCGP)

This Criminal Revision Petition is filed under Section 397 read with Section 401 of Cr.P.C., praying to set aside the judgment and order of conviction dated 9.11.2012 passed by the Prl.C.J. and JMFC, Chitradurga in CC No.1717/2008 and Judgment and Order dated 31.7.2014 passed by the

Addl.District and Sessions Judge, Chitradurga in Cr.A.No.85/2012 and acquitting the petitioner.

This Criminal Revision Petition having been heard and reserved on 24.02.2023, coming on for pronouncement of orders, this day, the Court made the following :

**ORDER**

The Revision Petitioner - accused no.1 in CC NO.1717/2008 on the file of Prl.Civil Judge and JMFC, Chitradurga being aggrieved by the judgment and sentence passed in the said case dated 9.11.2012 being affirmed by the Additional District and Sessions Judge, Chitradurga in Criminal Appeal No.85/2012 dated 31.7.2014 convicting and sentencing him for the offence punishable under Section 498A of IPC to undergo imprisonment for two years and to pay a fine of Rs.2,000/- with default sentence, has preferred this revision.

2. Brief and relevant facts leading upto this revision petition are as under:

That complainant by name Deepashri W/o.H.D.Naveen submitted a complaint before the Sub-Inspector, Women Police Station, Shimoga as per Ex.P1 alleging that, her marriage with accused no.1 was performed on 9.7.2007 at

Chitradurga town in Kshatriya Kalyana Mantapa as per the rites, rituals prevailing in their community. It is stated that, after the marriage, she went to the matrimonial home to reside with accused no.1. In the said house, the other accused named in the complaint in all seven persons were residing. It is alleged by the complainant that everyday these accused nos.1 to 7 named in the complaint used to ill-treat and harass the complainant both physically and mentally. Even sometimes, they assaulted her and used to abuse her in filthy language. Complainant tolerated for about eight months and lead marital life.

3. It is alleged that, at the time of her marriage, her parents gave Rs.32,000/- as dowry and six grams ring to accused no.1. But, even then, accused no.1 and his other members of his family were not satisfied and everyday they used to harass and ill-treat the complainant being married women. She is graduate in B.A.Bed. These accused persons forced her to go to parental house and dragged her out from the house. Her husband took the complainant to her parental house and left there.

4. It is alleged that, her husband accused no.1 is a drunkard and used to harass her physically during night

hours and used to quarrel with her. Even he assaulted her with cricket bat. It is alleged that the mother of the complainant gave her a golden chain weighing 18 grams and she was wearing the same. Accused no.1 forcibly took the said chain and spent the same towards his drinking habit. All these seven persons named in the complaint have harassed her physically mentally. On 5.2.2008, she was dragged out from the house. Though complainant went twice to her matrimonial house, but, she was not taken inside the house and was asked to sit outside during night hours also. Thus, it is alleged that, there was a persistent harassment to the complainant by the accused persons both physically mentally. Therefore, she filed a complaint as per Ex.P1 before the aforesaid police station which was registered in Crime No.60/2008 for the offence punishable under Sec.498A of IPC and Sec.3 and 4 of Dowry Prohibition Act.

5. On the point of jurisdiction, the said complaint was transferred to Chitradurga town Police Station and registered in Crime No.37 /2008. The Investigating Officer,

during the course of investigation arrested accused no.1 and others and produced them before the Court. He conducted the investigation, visited the scene of offence wherein the complainant resided with accused persons seized certain documents under the Panchanama. After completion of the investigation, he filed charge sheet against accused persons. Records reveal that during crime stage itself accused were enlarged on bail.

6. After filing the charge sheet, the jurisdictional Magistrate took cognizance of the offences. Copies of police papers were furnished to the accused persons as contemplated under 207 of Cr.PC.

7. After hearing both the sides, charges against accused persons for the offences under 498A of IPC and 3 and 4 of Dowry Prohibition Act were framed and read over the same to the accused persons in Kannada the language known to him. They pleaded not guilty and claimed to be tried.

8. To prove the guilt of the accused, prosecution in all examined eight witness PWs 1 to 8 and got marked Ex.P1 to P6 with respective signatures thereon and closed prosecution evidence.

9. Accused were questioned under Section 313 of Cr.P.C so as to enable them to answer the incriminating circumstances. They denied their complicity in the crime and did not chose to lead any defence evidence.

10. The learned Pri.Civil Judge and JMFC, Chitradurga, on hearing the arguments and on perusal of the records, convicted accused no.1 to 4 for the offences under sec.498A of IPC and Sec.3 and 4 of Dowry Prohibition Act and acquitted accused nos. 5 to 7. The said accused nos.1 to 4 were sentenced for imprisonment for a period of two years and pay a fine of Rs.2,000/- with default sentence for the offence under Sec.498A of IPC and also sentenced to undergo SI for two years and pay a fine of Rs.15,000/- with default sentence under Sec.3 of DP Act and sentenced to

undergo SI for three months and pay a fine of Rs.2,000/- for the offence under Sec.4 of DP Act with default sentence.

11. This judgment of conviction and sentence was challenged by accused nos. 1 to 4 before the I Addl. District and Sessions Judge, Chitradurga by filing Criminal Appeal 85/2012. The records do reveal that during the pendency of the appeal, appellant no.2/accused no.2. died on 25.3.2014 and appeal of accused no.2.stood abated.

12. The learned I Addl. District Judge, vide judgment dated 31.7.2014 convicted accused no.1. alone for the offence under Sec.498A of IPC and acquitted him for the offences under Section 3 and 4 of D.P.Act by affirming the judgment and conviction of sentence and acquitted accused no.2, 3 and 4 for the offences under Sec.498A of IPC and Sec. 3 and 4 DP Act.

13. It is accused no.1 who has preferred this revision petition being aggrieved by the judgment of confirmation of conviction and sentence for the offence under Sec.498A of

IPC being affirmed by the first appellate Court on the following grounds:

The judgment of conviction and sentence passed by the Pri.Civil Judge and JMFC, Chitradurga and affirmed by the first appellate Court are opposed to law, evidence on record and facts and circumstances. The evidence so adduced by the prosecution suffers from serious infirmities, improvements and contradictions. Both the courts have failed to appreciate such evidence in proper perspective. There is delay of filing the complaint 5 months 10 days. It is an afterthought complaint. Complainant is a lady being graduate in B.A.Bed and is PE teacher aged 40 years at the time of filing complaint, must be knowing about the affairs. PWs.3 and 4 are the close family members of PW.1 and all these PW.3 and 4 are residents of Kumsi village which is about 200 kms from Chitradurga. It is denied that he has taken dowry of Rs.32,000/- and a golden ring. There is no harassment as alleged by the complainant. These accused persons are no way concerned to the commission of alleged crime. It is



complainant who was working in a private Institution wanted to regularize her services therefore, she demanded to provide financial assistance to her for regularization of her services. As accused no.1 is a poor person could not make arrangement and voluntarily this complainant has left the company of accused no.1. but, this fact is not properly appreciated by the trial court and the first appellate Court. It is a false case being foisted. This complainant is more interested to reside in her parents' house rather than in the house of accused no.1. No incident has taken place as alleged by the complainant but, even then, these accused persons have been falsey charge sheeted by the Police. Amongst other grounds, it is prayed by accused no.1. to allow this revision and acquit him of the charges leveled against him for the offences under Sec.498A of IPC.

14. Evidently, the State has not preferred any appeal or revision on the acquittal order of accused nos. 2 to 4.

15. After filing this revision, the same is admitted. Learned SPP took notice of this revision. Records of the trial court and first appellate Court are secured.

16. It is argued by the counsel for the revision petitioner-accused that, in view of the admissions of PW.1 and the interested evidence of other witnesses, there is a doubt in the case of prosecution. Benefit of doubt is to be extended to the revision petitioner. He submits that, a false case was registered against accused no.1 and he is no way concerned to the alleged crime and the false allegations are made by the complainant so as to get the sympathy. There is no harassment or ill-treatment to the complainant by the accused persons. The evidence placed on record does not establish the guilt of the accused. Hence, he submits that revision petition be allowed and accused no.1. being revision petitioner be acquitted of the charges.

17. As against this submission, the learned SPP supported the reasons being assigned by both the Courts and supported the findings thereon. He submits that, it is PW.1

who has suffered both mentally and physically in the hands of accused no.1. He further submits that, the evidence of PW.1 is sufficient to prove the guilt of the accused and which is duly proved before the trial court by adducing acceptable evidence. He submits, no interference is required into the judgments of conviction and sentence.

18. In view of the rival submission of both sides, the following points arise for my consideration:

*"1. Whether the revision petitioner-accused prove that trial Magistrate and first appellate Court are not justified in finding the accused no. 1 guilty?*

*2. What order"*

19. Before adverting to the other aspects of the case, let me analyze the admitted facts between both the side. The admitted facts are that, accused No.1 is the husband of complainant. Their marriage was performed at Bhavsar Kaiyan Mantap at Chitradurga on 09.07.2007, according to the rights, rituals prevailing in their community. After

marriage, complainant started residing in her matrimonial home.

20. The specific allegation of the complainant is that after marriage for 15 days herself and accused No.1 her husband were in cordial terms. It is alleged by her that this accused No.1 warned her that she will not be taken anywhere. She further alleged that by creating the problems he started assaulting her. Harassed her, ill-treated her. To this illegal act of accused No.1, her sisters used to abet him. They used to abuse her in filthy language. Though they abused her in front of her husband, he used to keep quite.

21. According to her, at the time of marriage by way of dowry Rs.32,000/- was given to the accused No.1 along with a golden ring. But accused No.1 was not satisfied. There was a persistent demand by him to bring money from her parental house. He assaulted her with belt, plastic pipe, chair and cricket bat. She had an interest to do the job. It is further stated that accused no1. and his sisters used to ask the complainant to be in the house and they had obtained

her signature on the stamp paper on which she was compelled to write that, she herself would be responsible for her death. She has signed the same at the instance accused No.1 and his sisters and they have retained the stamp paper with them.

22. She further alleged that, when she came to her husband's house, she brought a golden chain weighing 18 grams but it was snatched away by accused No.1 to meet his bad vices. He is a drunkard. She alleged that, on 05.02.2008 accused No.1 took her to her parental house in a car and left her there itself. Though there was an attempt to come back to her matrimonial house but accused persons never permitted.

23. These assertions made in the complaint have been reiterated by her in her examination-in-chief. She states that, she lodged a complaint before the police and police have conducted the investigation. Though she has been directed with intensive cross-examination but she has withstood the test of cross-examination. It is brought on

record that, complainant tried to get her job regularized by paying money and to that effect she demanded money to the accused No.1. She denies the suggestion about demanding the money from her husband. She is consistent about the ill-treatment, harassment did by accused No.1 and others against her. She is quite consistent that, it is accused No.1 and his sisters ill-treated and harassed her.

24. PW.2 the brother of the complainant by name Anandmurthy deposed with regard to the harassment and ill-treatment by accused No.1 to the complainant. An attempt was made by him to send his sister back to the house of accused No.1, but did not succeed. He says that whenever there was a request to accused No.1 to lead a happy married life with his sister, accused No.1 used to say that he knows jail, he knows court and he is not going to give back the golden chain. Let anything happen. There is no denial of this fact in the cross-examination directed to this PW.2. He too admits about getting permanent employment to his sister. But denies other suggestions. Though searching cross-

examination is directed to this PW.2, but, he has withstood the test of cross-examination.

25. PW.3 - Prakash Huchappa is the person who attended the marriage of accused No.1 and the complainant. He states with regard to getting information regarding harassment and ill-treatment to PW.1 complainant by the accused persons. He accompanied PW.2 on various occasions to convince accused No.1 and his family members to lead happy marital life. But his request was not considered by accused No.1. No effective cross-examination is directed to PW.3 to disbelieve his evidence.

26. On reading the evidences of PW.1 to 3, it do demonstrate that, there was a persistent ill-treatment and harassment of PW.1 complainant physically and mentally by accused No.1.

27. PW.4 Haladappa is the pancha to Ex.P.3. As per his evidence, he showed the house of accused no.1 to the Police where complainant resided. The police have conducted the Panchanama as per Ex.P3. Except the denial nothing is

elicited from the mouth of this witness so as to disbelieve his version of conducting Panchanama as per Ex.P.3. Therefore, I believe the evidence of PW.4 regarding conducting Panchanam of the house of accused No.1

28. PW.5 Revappa was the PSI at the relevant time who received the complaint at Shimogga as per Ex.P.1, prepared the FIR as per Ex.P.11 and transferred the same to the jurisdictional police. He has also prepared the Ex.P.2 Panchanama after recovery of wedding card, colour photograph, photocopy of receipt. There is no denial of this fact in the cross-examination.

29. PW.7 Umapathi was the PI at the relevant time who received the report and the complaint from Shimogga police station registered the crime and set the criminal law in motion. He arrested accused No.1 and produced him before the Court. He denied all the suggestion directed to him.

30. PW.7 - M.N.Basheer was the PSI and he conducted the investigation being the PSI at the relevant



time. Prepared the panchanama as per Ex.P.3. Except the denial nothing is elicited in the cross-examination.

31. PW.8 -Chandahas Naik was the CPI who has filed charge-sheet against the accused persons.

32. Thus, on reading the complaint Ex.P.1 and evidence of PWs.1 to 3, they do suggest about harassment and ill-treatment on a married woman by accused No.1. Ex.P.2 is the seizure Panchanama of wedding card, photograph, E.xP.3 is the Panchanama of scene of offence and we have other documents like FIR etc.

33. The learned trial court as well as first appellate Court having categorically held that, the harassment ill-treatment as defined under the provisions of Indian Penal Code, is proved against accused no.1.

34. In India, if the marital relationship is strained and if the wife lives separately due to valid reasons, the laws says that the wife can lay a claim for maintenance against husband. "Marital relationship" means the legally protected

marital interest of one spouse to another which include marital obligation to another like companionship, living under the same roof, sexual relation and the exclusive enjoyment of them, to have children, their up bringing, services in the home, support, affection, love, liking and so on.

35. Section 498A of IPC speaks of husband or relative of husband of a woman subjecting her to cruelty. The said Section 498A reads as under :-

**"498A. 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 the woman to commit suicide or to cause grave injury or danger to 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.

36. The basic purport of the statutory provision is to avoid 'cruelty', which stands defined by attributing a specific statutory meaning attached thereto as noticed herein before. Two specific instances have taken note of in order to ascribe a meaning to the word 'cruelty' as is expressed by the legislature - whereas Explanation (a) involves three specific situations viz., 1) to drive the woman to commit suicide or 2) to cause grave injury or 3) danger to life, limb or health, both mental and physical, and thus involving a physical torture or atrocity, in explanation (b) there is absence of physical injury but the legislature thought it fit to include only coercive harassment which obviously as the legislative intent expressed is equally heinous to match the physical injury - whereas one is patent, the other one is latent but equally serious in terms of the provisions of the statute since

the same would also embarrass the altitudes of 'cruelty' in terms of Section 498A of IPC.

37. Here fortunately in this case there was not abatement to commit suicide but other factors with regard to the proof of ill-treatment and harassment have been spoken to by PW.1 being the victim. The cruelty for the purpose of offence need not be physical. Even mental torture or abnormal behaviour may amount to cruelty or harassment in a given case.

38. In this case, the ingredients of ill-treatment and harassment have been spoken to by PW.1 to 3 and there was physical and mental harassment which would come within the purview of Section 498A of IPC. Mental cruelty, of course, vary from person to person, depending upon the intensity and the degree of endurance, some may meet with courage and some others suffer silently, to some, it may be unbearable and a weak person may think of ending once life. Here in this case, there is a mental and physical torture by the accused and because of this, the relationship between

complainant and accused No.1 was strained. Therefore, in the considered of the view of this court, if all these factual features coupled with the evidence placed on record, it can be stated that, cruelty can either by mental or physical. It is difficult to have straight jacket definition of the term 'cruelty' Because 'cruelty' is a relative term. What constitutes 'cruelty' for one person may not constitute 'cruelty' for another person. That means the concept of 'cruelty' and its effect varies from individual to individual, also depending upon the social and economic status to which such person belongs. It has come in the evidence that complainant is coming from poor family. Accused No.1 is unemployed. Perhaps he must be having inferiority complex as his wife complainant is a BA., B.Ed. graduate working as a Teacher. That must have been made the accused No.1 and his family members to harass complainant by making unlawful demand and he must have harassed physically and mentally. The events she has spoken before the Court about the harassment and ill-treatment meted to her right from the days of her stay in her husbands house. She has given many instances being the

victim of domestic violence meted on her and there was an attempt to prevent the same but she could not succeed.

39. The allegation so did by her is found genuine and therefore the learned Trial Court has convicted accused No.1 and others and the first Appellate Court has found accused No.1 guilty of committing offence under Section 498A of IPC. I do not find any factual or legal error in finding accused No.1 guilty.

40. So far as sentence is concerned, the learned counsel for the revision petitioner/accused No.1 submits that, in case if the court comes to the conclusion that accused No.1 is guilty, then heavy fine may be imposed. Now-a-days there is increase in the offence against the married woman by the husband and relatives of the husband. Because of increase in such offences, Section 498A of IPC was introduced in the year 1983 to protect married women from being subjected to cruelty by the husband or his relatives. A punishment extending to three years and fine has been prescribed. The expression, cruelty has been defined in wide

terms so as to include inflicting physical or mental harm for the body or health of the woman etc.

41. So thus, in this case the argument of the counsel for the accused No.1 to show leniency cannot be accepted. This case is of the year 2008. Now we are in the year 2023. Perhaps, accused No.1 must have learnt lesson. Even there was no attempt made by him as per the submission of the State to bring back his wife to lead happy marital life. This conduct shows that the accused No.1 is not having any love and affection towards his wife. In view of all these factual features, no grounds have been made by the revision petitioner/accused No.1 to show leniency in reducing the sentence. Therefore, I record my finding on point No.1 in the negative.

42. In view of my foregoing discussion and the reasons stated thereon, the revision petition so filed by the revision petitioner/accused No.1 is devoid of any merits and is liable to be dismissed.

Resultantly, I pass the following:

**ORDER**

The revision petition filed by the petitioner/accused No.1 under Section 397 read with Section 401 of Cr.P.C is dismissed.

The judgment of conviction and sentence passed by the Principal Civil Judge and JMFC, Chitradurga in C.C.No.1717/2008 dated 09.11.2012 and affirmed by the Addl. District and Sessions Judge, Chitradurga in Criminal Appeal No.85/2012 dated 31.07.2014 in so far as accused no.1 is concerned, is hereby confirmed.

The trial Court is requested to take appropriate steps to secure the accused to undergo remaining sentence.

Accused no.1 is directed to surrender before the trial Court forthwith to serve the remaining sentence.

The period undergone by the accused in the judicial custody is given set off under Section 428 of Cr.P.C.



Send back the trial Court records and First Appellate Court records forthwith along with copy of this order.

**Sd/-  
JUDGE**

Sk/SN-

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